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SENATE BILL 147

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Mary Jane M. Garcia

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO FAMILY LAW; ENACTING THE NEW MEXICO UNIFORM PARENTAGE ACT; PROVIDING FOR ESTABLISHMENT OF THE PARENT-CHILD RELATIONSHIP, DETERMINATION OF PATERNITY AND GENETIC TESTING; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

Section 1-101. [NEW MATERIAL] SHORT TITLE.--Sections 1-101 through 9-903 of this act may be cited as the "New Mexico Uniform Parentage Act".

Section 1-102. [NEW MATERIAL] DEFINITIONS.--As used in the New Mexico Uniform Parentage Act:

A. "acknowledged father" means a man who has

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1 established a father-child relationship pursuant to Article 3  
2 of the New Mexico Uniform Parentage Act;

3 B. "adjudicated father" means a man who has been  
4 adjudicated by a court of competent jurisdiction to be the  
5 father of a child;

6 C. "alleged father" means a man who alleges himself  
7 to be, or is alleged to be, the genetic father or a possible  
8 genetic father of a child, but whose paternity has not been  
9 determined. "Alleged father" does not include:

10 (1) a presumed father;

11 (2) a man whose parental rights have been  
12 terminated or declared not to exist; or

13 (3) a male donor;

14 D. "assisted reproduction" means a method of  
15 causing pregnancy other than sexual intercourse. "Assisted  
16 reproduction" includes:

17 (1) intrauterine insemination;

18 (2) donation of eggs;

19 (3) donation of embryos;

20 (4) in-vitro fertilization and transfer of  
21 embryos; and

22 (5) intracytoplasmic sperm injection;

23 E. "bureau" means the vital records and health  
24 statistics bureau of the public health division of the  
25 department of health;

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1           F. "child" means a person of any age whose  
2 parentage may be determined pursuant to the New Mexico Uniform  
3 Parentage Act;

4           G. "commence" means to file the initial pleading  
5 seeking an adjudication of parentage in district court;

6           H. "determination of parentage" means the  
7 establishment of the parent-child relationship by the signing  
8 of a valid acknowledgment of paternity pursuant to Article 3 of  
9 the New Mexico Uniform Parentage Act or adjudication by the  
10 court;

11           I. "donor" means a person who produces eggs or  
12 sperm used for assisted reproduction, whether or not for  
13 consideration. "Donor" does not include:

14                 (1) a husband who provides sperm, or a wife  
15 who provides eggs, to be used for assisted reproduction by the  
16 wife;

17                 (2) a woman who gives birth to a child by  
18 means of assisted reproduction; or

19                 (3) a parent pursuant to Article 7 of the New  
20 Mexico Uniform Parentage Act;

21           J. "ethnic or racial group" means, for purposes of  
22 genetic testing, a recognized group that a person identifies as  
23 all or part of the person's ancestry or that is so identified  
24 by other information;

25           K. "genetic testing" means an analysis of genetic

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1 markers to exclude or identify a man as the father or a woman  
2 as the mother of a child. "Genetic testing" includes an  
3 analysis of one or a combination of the following:

4 (1) deoxyribonucleic acid; and  
5 (2) blood-group antigens, red-cell antigens,  
6 human-leukocyte antigens, serum enzymes, serum proteins or red-  
7 cell enzymes;

8 L. "man" means a male person of any age;

9 M. "parent" means a person who has established a  
10 parent-child relationship pursuant to Section 2-201 of the New  
11 Mexico Uniform Parentage Act;

12 N. "parent-child relationship" means the legal  
13 relationship between a child and a parent of the child,  
14 including the mother-child relationship and the father-child  
15 relationship;

16 O. "paternity index" means the likelihood of  
17 paternity calculated by computing the ratio between:

18 (1) the likelihood that the tested man is the  
19 father, based on the genetic markers of the tested man, mother  
20 and child, conditioned on the hypothesis that the tested man is  
21 the father of the child; and

22 (2) the likelihood that the tested man is not  
23 the father, based on the genetic markers of the tested man,  
24 mother and child, conditioned on the hypothesis that the tested  
25 man is not the father of the child and that the father is of

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1 the same ethnic or racial group as the tested man;

2 P. "presumed father" means a man who, by operation  
3 of law pursuant to Section 2-204 of the New Mexico Uniform  
4 Parentage Act, is recognized as the father of a child until  
5 that status is rebutted or confirmed in a judicial proceeding;

6 Q. "probability of paternity" means the measure,  
7 for the ethnic or racial group to which the alleged father  
8 belongs, of the probability that the man in question is the  
9 father of the child, compared with a random, unrelated man of  
10 the same ethnic or racial group, expressed as a percentage  
11 incorporating the paternity index and a prior probability;

12 R. "record" means information that is inscribed on  
13 a tangible medium or that is stored in an electronic or other  
14 medium and is retrievable in perceivable form;

15 S. "signatory" means a person who signs or  
16 otherwise authenticates a record and is bound by its terms;

17 T. "state" means a state of the United States, the  
18 District of Columbia, Puerto Rico, the United States Virgin  
19 Islands or any territory or insular possession subject to the  
20 jurisdiction of the United States; and

21 U. "support-enforcement agency" means a public  
22 official or agency authorized to seek:

23 (1) enforcement of support orders or laws  
24 relating to the duty of support;

25 (2) establishment or modification of child

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1 support;

2 (3) determination of parentage; or

3 (4) location of child-support obligors and  
4 their income and assets.

5 Section 1-103. [NEW MATERIAL] SCOPE OF ACT--CHOICE OF  
6 LAW.--

7 A. The New Mexico Uniform Parentage Act applies to  
8 determination of parentage in New Mexico.

9 B. The district court shall apply the law of New  
10 Mexico to adjudicate the parent-child relationship. The  
11 applicable law does not depend on:

12 (1) the place of birth of the child; or

13 (2) the past or present residence of the  
14 child.

15 Section 1-104. [NEW MATERIAL] JURISDICTION.--The district  
16 court has jurisdiction to adjudicate parentage pursuant to the  
17 New Mexico Uniform Parentage Act.

18 Section 1-105. [NEW MATERIAL] PROTECTION OF  
19 PARTICIPANTS.--Proceedings pursuant to the New Mexico Uniform  
20 Parentage Act are subject to other laws of New Mexico governing  
21 the health, safety, privacy and liberty of a child or other  
22 person who could be jeopardized by disclosure of identifying  
23 information, including address, telephone number, place of  
24 employment, social security number and the child's daycare  
25 facility and school.

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1           Section 1-106. [NEW MATERIAL] DETERMINATION OF  
2 MATERNITY.--Provisions of the New Mexico Uniform Parentage Act  
3 relating to determination of paternity apply to determinations  
4 of maternity.

5 ARTICLE 2  
6 PARENT-CHILD RELATIONSHIP

7           Section 2-201. [NEW MATERIAL] ESTABLISHMENT OF PARENT-  
8 CHILD RELATIONSHIP.--

9           A. The mother-child relationship is established  
10 between a woman and a child by:

- 11                   (1) the woman's having given birth to the
- 12 child;
- 13                   (2) an adjudication of the woman's maternity;
- 14 or
- 15                   (3) adoption of the child by the woman.

16           B. The father-child relationship is established  
17 between a man and a child by:

- 18                   (1) an un rebutted presumption of the man's
- 19 paternity of the child pursuant to Section 2-204 of the New
- 20 Mexico Uniform Parentage Act;
- 21                   (2) an effective acknowledgment of paternity
- 22 by the man pursuant to Article 3 of the New Mexico Uniform
- 23 Parentage Act, unless the acknowledgment has been rescinded or
- 24 successfully challenged;
- 25                   (3) an adjudication of the man's paternity;

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- 1 (4) adoption of the child by the man; or  
2 (5) the man's having consented to assisted  
3 reproduction by a woman pursuant to Article 7 of the New Mexico  
4 Uniform Parentage Act that resulted in the birth of the child.

5 Section 2-202. [NEW MATERIAL] NO DISCRIMINATION BASED ON  
6 MARITAL STATUS.--A child born to parents who are not married to  
7 each other has the same rights pursuant to the law as a child  
8 born to parents who are married to each other.

9 Section 2-203. [NEW MATERIAL] CONSEQUENCES OF  
10 ESTABLISHMENT OF PARENTAGE.--Unless parental rights are  
11 terminated or relinquished, a parent-child relationship  
12 established pursuant to the New Mexico Uniform Parentage Act  
13 applies for all purposes, except as otherwise specifically  
14 provided by other law of New Mexico.

15 Section 2-204. [NEW MATERIAL] PRESUMPTION OF PATERNITY.--

16 A. A man is presumed to be the father of a child  
17 if:

18 (1) he and the mother of the child are married  
19 to each other and the child is born during the marriage;

20 (2) he and the mother of the child were  
21 married to each other and the child is born within three  
22 hundred days after the marriage is terminated by death,  
23 annulment, declaration of invalidity or divorce or after a  
24 decree of separation;

25 (3) before the birth of the child, he and the



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1 mother of the child married each other in apparent compliance  
2 with law, even if the attempted marriage is or could be  
3 declared invalid, and the child is born during the invalid  
4 marriage or within three hundred days after its termination by  
5 death, annulment, declaration of invalidity or divorce or after  
6 a decree of separation;

7 (4) after the birth of the child, he and the  
8 mother of the child married each other in apparent compliance  
9 with law, whether or not the marriage is or could be declared  
10 invalid, and he voluntarily asserted his paternity of the  
11 child, and:

12 (a) the assertion is in a record filed  
13 with the bureau;

14 (b) he agreed to be and is named as the  
15 child's father on the child's birth certificate; or

16 (c) he promised in a record to support  
17 the child as his own; or

18 (5) for the first two years of the child's  
19 life, he resided in the same household with the child and  
20 openly held out the child as his own.

21 B. A presumption of paternity established pursuant  
22 to this section may be rebutted only by an adjudication  
23 pursuant to Article 6 of the New Mexico Uniform Parentage Act.

24 ARTICLE 3

25 VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

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1           Section 3-301. [NEW MATERIAL] ACKNOWLEDGMENT OF  
2 PATERNITY.--The mother of a child and a man claiming to be the  
3 genetic father of the child may sign an acknowledgment of  
4 paternity with intent to establish the man's paternity.

5           Section 3-302. [NEW MATERIAL] EXECUTION OF ACKNOWLEDGMENT  
6 OF PATERNITY.--

7           A. An acknowledgment of paternity shall:

8                       (1) be in a record;

9                       (2) be signed or otherwise authenticated under  
10 penalty of perjury by the mother and by the man seeking to  
11 establish his paternity;

12                      (3) state that the child whose paternity is  
13 being acknowledged:

14                               (a) does not have a presumed father or  
15 has a presumed father whose full name is stated; and

16                               (b) does not have another acknowledged  
17 or adjudicated father;

18                      (4) state whether there has been genetic  
19 testing and, if so, that the acknowledging man's claim of  
20 paternity is consistent with the results of the testing; and

21                      (5) state that the signatories understand that  
22 the acknowledgment is the equivalent of a judicial adjudication  
23 of paternity of the child and that a challenge to the  
24 acknowledgment is permitted only under limited circumstances  
25 and is barred after two years.

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1                   B. An acknowledgment of paternity is void if it:

2                   (1) states that another man is a presumed  
3 father, unless a denial of paternity signed or otherwise  
4 authenticated by the presumed father is filed with the bureau;

5                   (2) states that another man is an acknowledged  
6 or adjudicated father; or

7                   (3) falsely denies the existence of a  
8 presumed, acknowledged or adjudicated father of the child.

9                   C. A presumed father may sign or otherwise  
10 authenticate an acknowledgment of paternity.

11                   Section 3-303. [NEW MATERIAL] DENIAL OF PATERNITY.--A  
12 presumed father may sign a denial of his paternity. The denial  
13 is valid only if:

14                   A. an acknowledgment of paternity signed or  
15 otherwise authenticated by another man is filed pursuant to  
16 Section 3-305 of the New Mexico Uniform Parentage Act;

17                   B. the denial is in a record and is signed or  
18 otherwise authenticated under penalty of perjury; and

19                   C. the presumed father has not previously:

20                   (1) acknowledged his paternity, unless the  
21 previous acknowledgment has been rescinded pursuant to Section  
22 3-307 of the New Mexico Uniform Parentage Act or successfully  
23 challenged pursuant to Section 3-308 of the New Mexico Uniform  
24 Parentage Act; or

25                   (2) been adjudicated to be the father of the

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1 child.

2 Section 3-304. [NEW MATERIAL] RULES FOR ACKNOWLEDGMENT  
3 AND DENIAL OF PATERNITY.--

4 A. An acknowledgment of paternity and a denial of  
5 paternity may be contained in a single document or may be  
6 signed in counterparts, and may be filed separately or  
7 simultaneously. If the acknowledgment and denial are both  
8 necessary, neither is valid until both are filed.

9 B. An acknowledgment of paternity or a denial of  
10 paternity may be signed before or after the birth of the child.

11 C. Subject to Subsection A of this section, an  
12 acknowledgment of paternity or denial of paternity takes effect  
13 on the birth of the child or the filing of the document with  
14 the bureau, whichever occurs later.

15 D. An acknowledgment of paternity or denial of  
16 paternity signed by a minor is valid if it is otherwise in  
17 compliance with the New Mexico Uniform Parentage Act.

18 Section 3-305. [NEW MATERIAL] EFFECT OF ACKNOWLEDGMENT OR  
19 DENIAL OF PATERNITY.--

20 A. Except as otherwise provided in Sections 3-307  
21 and 3-308 of the New Mexico Uniform Parentage Act, a valid  
22 acknowledgment of paternity filed with the bureau is equivalent  
23 to an adjudication of paternity of a child and confers upon the  
24 acknowledged father all of the rights and duties of a parent.

25 B. Except as otherwise provided in Sections 3-307

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1 and 3-308 of the New Mexico Uniform Parentage Act, a valid  
2 denial of paternity by a presumed father filed with the bureau  
3 in conjunction with a valid acknowledgment of paternity is  
4 equivalent to an adjudication of the nonpaternity of the  
5 presumed father and discharges the presumed father from all  
6 rights and duties of a parent.

7 Section 3-306. [NEW MATERIAL] NO FILING FEE.--The bureau  
8 shall not charge for filing an acknowledgment of paternity or  
9 denial of paternity.

10 Section 3-307. [NEW MATERIAL] PROCEEDING FOR  
11 RESCISSION.--A signatory may rescind an acknowledgment of  
12 paternity or denial of paternity only by means of a judicial  
13 proceeding to rescind the acknowledgment or denial of  
14 paternity. A proceeding to rescind an acknowledgment of  
15 paternity or a denial of paternity shall be brought no later  
16 than the earlier of:

17 A. sixty days after the effective date of the  
18 acknowledgment or denial, as provided in Section 3-304 of the  
19 New Mexico Uniform Parentage Act; or

20 B. the date of the first hearing, in a proceeding  
21 to which the signatory is a party, before a court to adjudicate  
22 an issue relating to the child, including a proceeding that  
23 establishes support.

24 Section 3-308. [NEW MATERIAL] CHALLENGE AFTER EXPIRATION  
25 OF PERIOD FOR RESCISSION.--

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1           A. After the period for rescission pursuant to  
2 Section 3-307 of the New Mexico Uniform Parentage Act has  
3 expired, a signatory to an acknowledgment of paternity or  
4 denial of paternity may commence a proceeding to challenge the  
5 acknowledgment or denial only:

6                   (1) on the basis of fraud, duress or material  
7 mistake of fact; and

8                   (2) within two years after the acknowledgment  
9 or denial is filed with the bureau.

10           B. A party challenging an acknowledgment of  
11 paternity or denial of paternity has the burden of proof.

12           Section 3-309. [NEW MATERIAL] PROCEDURE FOR RESCISSION OR  
13 CHALLENGE.--

14           A. Every signatory to an acknowledgment of  
15 paternity and any related denial of paternity shall be made a  
16 party to a proceeding to rescind or challenge the  
17 acknowledgment or denial.

18           B. For the purpose of rescission of or challenge to  
19 an acknowledgment of paternity or denial of paternity, a  
20 signatory submits to the personal jurisdiction of the district  
21 courts of this state by signing the acknowledgment or denial,  
22 effective upon the filing of the document with the bureau.

23           C. Except for good cause shown, during the pendency  
24 of a proceeding to rescind or challenge an acknowledgment of  
25 paternity or denial of paternity, the district court shall not

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1 suspend the legal responsibilities of a signatory arising from  
2 the acknowledgment, including the duty to pay child support.

3 D. A proceeding to rescind or to challenge an  
4 acknowledgment of paternity or denial of paternity shall be  
5 conducted in the same manner as a proceeding to adjudicate  
6 parentage pursuant to Article 6 of the New Mexico Uniform  
7 Parentage Act.

8 E. At the conclusion of a proceeding to rescind or  
9 challenge an acknowledgment of paternity or denial of  
10 paternity, the court shall order the bureau to amend the birth  
11 record of the child, if appropriate.

12 Section 3-310. [NEW MATERIAL] RATIFICATION BARRED.--A  
13 court or administrative agency conducting a judicial or  
14 administrative proceeding shall not ratify an unchallenged  
15 acknowledgment of paternity.

16 Section 3-311. [NEW MATERIAL] FULL FAITH AND CREDIT--  
17 ACKNOWLEDGEMENT OR DENIAL OF PATERNITY.--A court of this state  
18 shall give full faith and credit to an acknowledgment of  
19 paternity or denial of paternity effective in another state if  
20 the acknowledgment or denial has been signed and is otherwise  
21 in compliance with the law of the other state.

22 Section 3-312. [NEW MATERIAL] FORMS FOR ACKNOWLEDGMENT  
23 AND DENIAL OF PATERNITY.--

24 A. The bureau shall prescribe forms for the  
25 acknowledgment of paternity and the denial of paternity.

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1           B. A valid acknowledgment of paternity or denial of  
2 paternity is not affected by a later modification of the  
3 prescribed form.

4           Section 3-313. [NEW MATERIAL] RELEASE OF INFORMATION.--  
5 The bureau may release information relating to the  
6 acknowledgment of paternity or denial of paternity to a  
7 signatory of the acknowledgment or denial and to courts and to  
8 other agencies as permitted pursuant to the provisions of  
9 Chapter 24, Article 14 NMSA 1978.

10          Section 3-314. [NEW MATERIAL] ADOPTION OF RULES.--The  
11 bureau may adopt and promulgate rules and forms to implement  
12 the provisions of this article.

13                                   ARTICLE 4

14                                   REGISTRY OF PATERNITY

15          Section 4-401. [NEW MATERIAL] ESTABLISHMENT OF  
16 REGISTRY.--A registry of paternity is established in the  
17 putative father registry established pursuant to the provisions  
18 of Section 32A-5-20 NMSA 1978.

19                                   ARTICLE 5

20                                   GENETIC TESTING

21          Section 5-501. [NEW MATERIAL] SCOPE OF ARTICLE.--This  
22 article governs genetic testing of a person to determine  
23 parentage, whether the person:

- 24           A. voluntarily submits to testing; or
- 25           B. is tested pursuant to an order of the district



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1 court or a support-enforcement agency.

2 Section 5-502. [NEW MATERIAL] ORDER FOR TESTING.--

3 A. Except as otherwise provided in this article and  
4 Article 6 of the New Mexico Uniform Parentage Act, the district  
5 court shall order the child and other designated persons to  
6 submit to genetic testing if the request for testing is  
7 supported by the sworn statement of a party to the proceeding:

8 (1) alleging paternity and stating facts  
9 establishing a reasonable probability of the requisite sexual  
10 contact between the persons; or

11 (2) denying paternity and stating facts  
12 establishing a possibility that sexual contact between the  
13 persons, if any, did not result in the conception of the child.

14 B. A support-enforcement agency may order genetic  
15 testing only if there is no presumed, acknowledged or  
16 adjudicated father.

17 C. If a request for genetic testing of a child is  
18 made before birth, the district court or support-enforcement  
19 agency shall not order in-utero testing.

20 D. If two or more men are subject to court-ordered  
21 genetic testing, the testing may be ordered concurrently or  
22 sequentially.

23 Section 5-503. [NEW MATERIAL] REQUIREMENTS FOR GENETIC  
24 TESTING.--

25 A. Genetic testing shall be of a type reasonably

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1       relied upon by experts in the field of genetic testing and  
2       performed in a testing laboratory accredited by:

3                   (1) the American association of blood banks or  
4       a successor to its functions;

5                   (2) the American society for  
6       histocompatibility and immunogenetics or a successor to its  
7       functions; or

8                   (3) an accrediting body designated by the  
9       federal secretary of health and human services.

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

15           C. Based on the ethnic or racial group of a person,  
16       the testing laboratory shall determine the databases from which  
17       to select frequencies for use in calculation of the probability  
18       of paternity. If there is disagreement as to the testing  
19       laboratory's choice, the following rules apply:

20                   (1) the person objecting may require the  
21       testing laboratory, within thirty days after receipt of the  
22       report of the test, to recalculate the probability of paternity  
23       using an ethnic or racial group different from that used by the  
24       laboratory;

25                   (2) the person objecting to the testing

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1 laboratory's initial choice shall:

2 (a) if the frequencies are not available  
3 to the testing laboratory for the ethnic or racial group  
4 requested, provide the requested frequencies compiled in a  
5 manner recognized by accrediting bodies; or

6 (b) engage another testing laboratory to  
7 perform the calculations; and

8 (3) the testing laboratory may use its own  
9 statistical estimate if there is a question regarding which  
10 ethnic or racial group is appropriate. If available, the  
11 testing laboratory shall calculate the frequencies using  
12 statistics for any other ethnic or racial group requested.

13 D. If, after recalculation using a different ethnic  
14 or racial group, genetic testing does not rebuttably identify a  
15 man as the father of a child pursuant to Section 5-505 of the  
16 New Mexico Uniform Parentage Act, a person who has been tested  
17 may be required to submit to additional genetic testing.

18 Section 5-504. [NEW MATERIAL] REPORT OF GENETIC  
19 TESTING.--

20 A. A report of genetic testing shall be in a record  
21 and signed under penalty of perjury by a designee of the  
22 testing laboratory. A report made pursuant to the requirements  
23 of this article is self-authenticating.

24 B. Documentation from the testing laboratory of the  
25 following information is sufficient to establish a reliable

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1 chain of custody that allows the results of genetic testing to  
2 be admissible without testimony:

3 (1) the names and photographs of the persons  
4 whose specimens have been taken;

5 (2) the names of the persons who collected the  
6 specimens;

7 (3) the places and dates the specimens were  
8 collected;

9 (4) the names of the persons who received the  
10 specimens in the testing laboratory;

11 (5) the dates the specimens were received; and

12 (6) the accreditation of the testing facility  
13 showing that it meets the requirements of Section 5-503 of the  
14 New Mexico Uniform Parentage Act.

15 Section 5-505. [NEW MATERIAL] GENETIC TESTING RESULTS--  
16 REBUTTAL.--

17 A. Pursuant to the New Mexico Uniform Parentage  
18 Act, a man is rebuttably identified as the father of a child if  
19 the genetic testing complies with this article and the results  
20 disclose that:

21 (1) the man has at least a ninety-nine percent  
22 probability of paternity, using a prior probability of zero  
23 point five zero, as calculated by using the combined paternity  
24 index obtained in the testing; and

25 (2) a combined paternity index of at least one

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1 hundred to one.

2 B. A man identified pursuant to Subsection A of  
3 this section as the father of the child may rebut the genetic  
4 testing results only by other genetic testing satisfying the  
5 requirements of this article that:

6 (1) excludes the man as a genetic father of  
7 the child; or

8 (2) identifies another man as the possible  
9 father of the child.

10 C. Except as otherwise provided in Section 5-510 of  
11 the New Mexico Uniform Parentage Act, if more than one man is  
12 identified by genetic testing as the possible father of the  
13 child, the court shall order them to submit to further genetic  
14 testing to identify the genetic father.

15 Section 5-506. [NEW MATERIAL] COSTS OF GENETIC TESTING.--

16 A. Subject to assessment of costs pursuant to  
17 Article 6 of the New Mexico Uniform Parentage Act, the cost of  
18 initial genetic testing shall be advanced:

19 (1) by a support-enforcement agency in a  
20 proceeding in which the support-enforcement agency is providing  
21 services;

22 (2) by the person who made the request;

23 (3) as agreed by the parties; or

24 (4) as ordered by the district court.

25 B. In cases in which the cost is advanced by the

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1 support-enforcement agency, the agency may seek reimbursement  
2 from a man who is rebuttably identified as the father.

3 Section 5-507. [NEW MATERIAL] ADDITIONAL GENETIC  
4 TESTING.--Prior to a final adjudication, the district court or  
5 the support-enforcement agency shall order additional genetic  
6 testing upon the request of a party who contests the result of  
7 the original testing. If the previous genetic testing  
8 identified a man as the father of the child pursuant to Section  
9 5-505 of the New Mexico Uniform Parentage Act, the court or  
10 agency shall not order additional testing unless the party  
11 provides advance payment for the testing.

12 Section 5-508. [NEW MATERIAL] GENETIC TESTING WHEN  
13 SPECIMENS NOT AVAILABLE.--

14 A. Subject to Subsection B of this section, if a  
15 genetic-testing specimen is not available from a man who may be  
16 the father of a child, for good cause and under circumstances  
17 the court considers to be just, the court may order the  
18 following persons to submit specimens for genetic testing:

- 19 (1) the parents of the man;
- 20 (2) brothers and sisters of the man;
- 21 (3) other children of the man and their  
22 mothers; and
- 23 (4) other relatives of the man necessary to  
24 complete genetic testing.

25 B. Issuance of an order pursuant to this section

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1 requires a finding that a need for genetic testing outweighs  
2 the legitimate interests of the person sought to be tested.

3 Section 5-509. [NEW MATERIAL] DECEASED PERSON.--For good  
4 cause shown, the district court may order genetic testing of a  
5 deceased person.

6 Section 5-510. [NEW MATERIAL] IDENTICAL BROTHERS.--

7 A. The district court may order genetic testing of  
8 a brother of a man identified as the father of a child if the  
9 man is commonly believed to have an identical brother and  
10 evidence suggests that the brother may be the genetic father of  
11 the child.

12 B. If each brother satisfies the requirements as  
13 the identified father of the child pursuant to Section 5-505 of  
14 the New Mexico Uniform Parentage Act without consideration of  
15 another identical brother being identified as the father of the  
16 child, the district court may rely on nongenetic evidence to  
17 adjudicate which brother is the father of the child.

18 Section 5-511. [NEW MATERIAL] CONFIDENTIALITY OF GENETIC  
19 TESTING.--

20 A. Release of the report of genetic testing for  
21 parentage is controlled by Section 24-14-27 NMSA 1978.

22 B. A person who intentionally releases an  
23 identifiable specimen of another person for any purpose other  
24 than that relevant to the proceeding regarding parentage  
25 without a court order or the written permission of the person

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1 who furnished the specimen is guilty of a fourth degree felony  
2 and shall be sentenced pursuant to the provisions of Section  
3 31-18-15 NMSA 1978.

4 ARTICLE 6

5 PROCEEDING TO ADJUDICATE PARENTAGE

6 PART 1 - NATURE OF PROCEEDING

7 Section 6-601. [NEW MATERIAL] PROCEEDING AUTHORIZED.--A  
8 civil proceeding may be maintained in the district court to  
9 adjudicate the parentage of a child. The proceeding is  
10 governed by the Rules of Civil Procedure for the District  
11 Courts. The mother of the child and an alleged father or  
12 presumed father are competent to testify. Any witness may be  
13 compelled to testify.

14 Section 6-602. [NEW MATERIAL] STANDING TO MAINTAIN  
15 PROCEEDING.--Subject to Article 3 and Sections 6-607 and 6-609  
16 of the New Mexico Uniform Parentage Act, a proceeding to  
17 adjudicate parentage may be maintained by:

- 18 A. the child;  
19 B. the mother of the child;  
20 C. a man whose paternity of the child is to be  
21 adjudicated;  
22 D. the support-enforcement agency;  
23 E. an authorized adoption agency or licensed child-  
24 placing agency; or  
25 F. a representative authorized by law to act for a

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1 person who would otherwise be entitled to maintain a proceeding  
2 but who is deceased, incapacitated or a minor.

3 Section 6-603. [NEW MATERIAL] PARTIES TO PROCEEDING.--The  
4 following persons shall be joined as parties in a proceeding to  
5 adjudicate parentage:

6 A. the mother of the child; and

7 B. a man whose paternity of the child is to be  
8 adjudicated.

9 Section 6-604. [NEW MATERIAL] PERSONAL JURISDICTION.--

10 A. A person shall not be adjudicated to be a parent  
11 unless the district court has personal jurisdiction over the  
12 person.

13 B. A district court of this state having  
14 jurisdiction to adjudicate parentage may exercise personal  
15 jurisdiction over a nonresident person, or the guardian or  
16 conservator of the person, if the conditions prescribed in  
17 Section 40-6A-201 NMSA 1978 are fulfilled.

18 C. Lack of jurisdiction over one person does not  
19 preclude the district court from making an adjudication of  
20 parentage binding on another person over whom the district  
21 court has personal jurisdiction.

22 Section 6-605. [NEW MATERIAL] VENUE.--Venue for a  
23 proceeding to adjudicate parentage is in the county of this  
24 state in which:

25 A. the child resides or is found;

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1           B. the respondent resides or is found if the child  
2 does not reside in this state; or

3           C. a proceeding for probate or administration of  
4 the presumed, acknowledged or alleged father's estate is  
5 pending.

6           Section 6-606. [NEW MATERIAL] NO LIMITATION--CHILD HAVING  
7 NO PRESUMED, ACKNOWLEDGED OR ADJUDICATED FATHER.--

8           A. A proceeding to adjudicate the parentage of a  
9 child having no presumed, acknowledged or adjudicated father  
10 may be commenced by the child at any time, even after:

11                   (1) the child becomes an adult; or

12                   (2) an earlier proceeding to adjudicate  
13 paternity has been dismissed based on the application of a  
14 statute of limitation then in effect.

15           B. A proceeding to adjudicate child support  
16 pursuant to Subsection A of this section is limited by Sections  
17 6-607 and 6-636 of the New Mexico Uniform Parentage Act.

18           Section 6-607. [NEW MATERIAL] LIMITATION--GENERAL.--

19           A. Any proceeding to adjudicate child support shall  
20 be brought not later than three years after the child has  
21 reached the age of majority.

22           B. Except as otherwise specifically provided in  
23 another provision of the New Mexico Uniform Parentage Act, any  
24 proceeding to adjudicate the parentage of a child shall be  
25 commenced not later than three years after the child has

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1 reached the age of majority.

2 Section 6-608. [NEW MATERIAL] AUTHORITY TO DENY MOTION  
3 FOR GENETIC TESTING.--

4 A. In a proceeding to adjudicate the parentage of a  
5 child having a presumed father or to challenge the paternity of  
6 a child having an acknowledged father, the district court may  
7 deny a motion seeking an order for genetic testing of the  
8 mother, the child and the presumed or acknowledged father if  
9 the district court determines that:

10 (1) the conduct of the mother or the presumed  
11 or acknowledged father estops that party from denying  
12 parentage; and

13 (2) it would be inequitable to disprove the  
14 father-child relationship between the child and the presumed or  
15 acknowledged father.

16 B. In determining whether to deny a motion seeking  
17 an order for genetic testing pursuant to this section, the  
18 district court shall consider the best interest of the child,  
19 including the following factors:

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

24 (2) the length of time during which the  
25 presumed or acknowledged father has assumed the role of father

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1 of the child;

2 (3) the facts surrounding the presumed or  
3 acknowledged father's discovery of his possible nonpaternity;

4 (4) the nature of the relationship between the  
5 child and the presumed or acknowledged father;

6 (5) the age of the child;

7 (6) the harm that may result to the child if  
8 presumed or acknowledged paternity is successfully disproved;

9 (7) the nature of the relationship between the  
10 child and any alleged father;

11 (8) the extent to which the passage of time  
12 reduces the chances of establishing the paternity of another  
13 man and a child-support obligation in favor of the child; and

14 (9) other factors that may affect the equities  
15 arising from the disruption of the father-child relationship  
16 between the child and the presumed or acknowledged father or  
17 the chance of other harm to the child.

18 C. In a proceeding involving the application of  
19 this section, a minor or incapacitated child shall be  
20 represented by a guardian ad litem.

21 D. Denial of a motion seeking an order for genetic  
22 testing shall be based on clear and convincing evidence.

23 E. If the district court denies a motion seeking an  
24 order for genetic testing, it shall issue an order adjudicating  
25 the presumed or acknowledged father to be the father of the

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1 child.

2 Section 6-609. [NEW MATERIAL] LIMITATION--CHILD HAVING  
3 ACKNOWLEDGED OR ADJUDICATED FATHER.--

4 A. If a child has an acknowledged father, a  
5 signatory to the acknowledgment of paternity or denial of  
6 paternity may commence a proceeding seeking to rescind the  
7 acknowledgment or denial or challenge the paternity of the  
8 child only within the time allowed pursuant to Section 3-307 or  
9 3-308 of the New Mexico Uniform Parentage Act.

10 B. If a child has an acknowledged father or an  
11 adjudicated father, a person, other than the child, who is  
12 neither a signatory to the acknowledgment of paternity nor a  
13 party to the adjudication and who seeks an adjudication of  
14 paternity of the child shall commence a proceeding not later  
15 than two years after the effective date of the acknowledgment  
16 or adjudication.

17 C. A proceeding pursuant to this section is subject  
18 to the application of the principles of estoppel established in  
19 Section 6-608 of the New Mexico Uniform Parentage Act.

20 Section 6-610. [NEW MATERIAL] JOINDER OF PROCEEDINGS.--

21 A. Except as otherwise provided in Subsection B of  
22 this section, a proceeding to adjudicate parentage may be  
23 joined with a proceeding in the district court for adoption,  
24 termination of parental rights, child custody or visitation,  
25 child support, divorce, annulment, legal separation or separate

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1 maintenance, probate or administration of an estate or other  
2 appropriate proceeding.

3 B. A respondent shall not join a proceeding  
4 described in Subsection A of this section with a proceeding to  
5 adjudicate parentage brought pursuant to the Uniform Interstate  
6 Family Support Act.

7 Section 6-611. [NEW MATERIAL] PROCEEDING BEFORE BIRTH.--A  
8 proceeding to determine parentage may be commenced before the  
9 birth of the child, but shall not be concluded until after the  
10 birth of the child. The following actions may be taken before  
11 the birth of the child:

12 A. service of process;

13 B. discovery; and

14 C. except as prohibited by Section 5-502 of the New  
15 Mexico Uniform Parentage Act, collection of specimens for  
16 genetic testing.

17 Section 6-612. [NEW MATERIAL] CHILD AS PARTY--  
18 REPRESENTATION.--

19 A. A minor child is a permissible party, but is not  
20 a necessary party to a proceeding pursuant to this article.

21 B. The district court shall appoint a guardian ad  
22 litem to represent a minor or incapacitated child if the child  
23 is a party or the district court finds that the interests of  
24 the child are not adequately represented.

25 PART 2 - SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

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1           Section 6-621. [NEW MATERIAL] ADMISSIBILITY OF RESULTS OF  
2 GENETIC TESTING--EXPENSES.--

3           A. Except as otherwise provided in Subsection C of  
4 this section, a record of a genetic-testing expert is  
5 admissible as evidence of the truth of the facts asserted in  
6 the report unless a party objects, in a writing delivered to  
7 the adverse party, to the record's admission within fourteen  
8 days after its receipt by the objecting party. The objecting  
9 party shall cite specific grounds for exclusion. The  
10 admissibility of the report is not affected by whether the  
11 testing was performed:

12                   (1) voluntarily or pursuant to an order of the  
13 district court or a support-enforcement agency; or

14                   (2) before or after the commencement of the  
15 proceeding.

16           B. A party objecting to the results of genetic  
17 testing may call one or more genetic-testing experts to testify  
18 in person or by telephone, videoconference, deposition or  
19 another method approved by the district court. Unless  
20 otherwise ordered by the district court, the party offering the  
21 testimony bears the expense for the expert testifying.

22           C. If a child has a presumed, acknowledged or  
23 adjudicated father, the results of genetic testing are  
24 inadmissible to adjudicate parentage unless performed:

25                   (1) with the consent of both the mother and

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1 the presumed, acknowledged or adjudicated father; or

2 (2) pursuant to an order of the district court  
3 pursuant to Section 5-502 of the New Mexico Uniform Parentage  
4 Act.

5 D. Copies of bills for genetic testing, for child  
6 birth and for prenatal and postnatal health care for the mother  
7 and child that are furnished to the adverse party not less than  
8 ten days before the date of a hearing are admissible to  
9 establish:

10 (1) the amount of the charges billed; and  
11 (2) that the charges were reasonable,  
12 necessary and customary.

13 Section 6-622. [NEW MATERIAL] CONSEQUENCES OF DECLINING  
14 GENETIC TESTING.--

15 A. An order for genetic testing is enforceable by  
16 contempt.

17 B. If a person whose paternity is being determined  
18 declines to submit to genetic testing ordered by the district  
19 court, the district court for that reason may adjudicate  
20 parentage contrary to the position of the person who declines.

21 C. Genetic testing of the mother of a child is not  
22 a condition precedent to testing the child and a man whose  
23 paternity is being determined. If the mother is unavailable or  
24 declines to submit to genetic testing, the district court may  
25 order the testing of the child and every man whose paternity is

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1 being adjudicated.

2 Section 6-623. [NEW MATERIAL] ADMISSION OF PATERNITY  
3 AUTHORIZED.--

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

8 B. If the district court finds that the admission  
9 of paternity satisfies the requirements of this section and  
10 finds that there is no reason to question the admission, the  
11 district court shall issue an order adjudicating the child to  
12 be the child of the man admitting paternity.

13 Section 6-624. [NEW MATERIAL] TEMPORARY ORDER.--

14 A. In a proceeding pursuant to this article, the  
15 district court shall issue a temporary order for support of a  
16 child if the order is appropriate and the person ordered to pay  
17 support is:

- 18 (1) a presumed father of the child;
- 19 (2) petitioning to have his paternity  
20 adjudicated;
- 21 (3) identified as the father through genetic  
22 testing pursuant to Section 5-505 of the New Mexico Uniform  
23 Parentage Act;
- 24 (4) an alleged father who has declined to  
25 submit to genetic testing;

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1 (5) shown by clear and convincing evidence to  
2 be the father of the child; or

3 (6) the mother of the child.

4 B. A temporary order may include provisions for  
5 custody and visitation as provided by other law of this state.  
6 A temporary order of support is subject to Section 6-636 of the  
7 New Mexico Uniform Parentage Act.

8 Section 6-625. [NEW MATERIAL] PRETRIAL PROCEEDINGS.--As  
9 soon as practicable after an action to declare the existence or  
10 nonexistence of a father-child relationship has been brought,  
11 and unless judgment by default has been entered, an informal  
12 hearing shall be held. The court may order that the hearing be  
13 held before a master. The public shall be barred from the  
14 hearing. A record of the proceeding or any portion of the  
15 proceeding shall be kept if any party requests or the court so  
16 orders. The rules of evidence shall not apply.

17 Section 6-626. [NEW MATERIAL] PRETRIAL RECOMMENDATIONS.--

18 A. On the basis of the information produced at the  
19 pretrial hearing, the judge, hearing officer or master  
20 conducting the hearing shall evaluate the probability of  
21 determining the existence or nonexistence of a father-child  
22 relationship in a trial. On the basis of the evaluation, an  
23 appropriate recommendation for settlement shall be made to the  
24 parties. Based upon the evaluation, the judge, hearing officer  
25 or master may enter an order for temporary support consistent

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1 with the child-support guidelines as provided in Section  
2 40-4-11.1 NMSA 1978.

3 B. If the parties accept a recommendation made in  
4 accordance with Subsection A of this section, judgment shall be  
5 entered accordingly.

6 C. If a party refuses to accept a recommendation  
7 made in accordance with Subsection A of this section and  
8 genetic testing has not been taken, the court shall require the  
9 parties to submit to genetic testing, if practicable.

10 Thereafter, the judge, hearing officer or master shall make an  
11 appropriate final recommendation. If a party refuses to accept  
12 the final recommendation, the action shall be set for trial and  
13 a party's acceptance or rejection of the recommendation shall  
14 be treated as any other offer of settlement with respect to its  
15 admissibility as evidence in subsequent proceedings.

16 D. The child's guardian may accept or refuse to  
17 accept a recommendation under this section.

18 E. The informal hearing may be terminated and the  
19 action set for trial if the judge, hearing officer or master  
20 conducting the hearing finds it unlikely that all parties would  
21 accept a recommendation that the judge, hearing officer or  
22 master might make under Subsection A or C of this section.

23 PART 3 - HEARINGS AND ADJUDICATION

24 Section 6-631. [NEW MATERIAL] RULES FOR ADJUDICATION OF  
25 PATERNITY.--The district court shall apply the following rules

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1 to adjudicate the paternity of a child:

2 A. the paternity of a child having a presumed,  
3 acknowledged or adjudicated father may be disproved only by  
4 admissible results of genetic testing excluding that man as the  
5 father of the child or identifying another man as the father of  
6 the child;

7 B. unless the results of genetic testing are  
8 admitted to rebut other results of genetic testing, a man  
9 identified as the father of a child pursuant to Section 5-505  
10 of the New Mexico Uniform Parentage Act shall be adjudicated  
11 the father of the child;

12 C. if the district court finds that genetic testing  
13 pursuant to Section 5-505 of the New Mexico Uniform Parentage  
14 Act neither identifies nor excludes a man as the father of a  
15 child, the district court shall not dismiss the proceeding. In  
16 that event, the results of genetic testing and other evidence  
17 are admissible to adjudicate the issue of paternity; and

18 D. unless the results of genetic testing are  
19 admitted to rebut other results of genetic testing, a man  
20 excluded as the father of a child by genetic testing shall be  
21 adjudicated not to be the father of the child.

22 Section 6-632. [NEW MATERIAL] JURY PROHIBITED.--The  
23 district court, without a jury, shall adjudicate paternity of a  
24 child.

25 Section 6-633. [NEW MATERIAL] HEARINGS--INSPECTION OF

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1 RECORDS.--

2           A. On request of a party and for good cause shown,  
3 the district court may close a proceeding to the public and  
4 except for a final order, may declare the proceeding to be  
5 confidential and seal the file.

6           B. A final order in a proceeding pursuant to this  
7 article is available for public inspection. Other papers and  
8 records are available only with the consent of the parties or  
9 on order of the district court for good cause.

10           C. The provisions of this section are subject to  
11 any rules established by the supreme court of New Mexico.

12           Section 6-634. [NEW MATERIAL] ORDER ON DEFAULT.--The  
13 district court shall issue an order adjudicating the paternity  
14 of a man who:

15           A. after service of process, is in default; and

16           B. is found by the district court to be the father  
17 of a child.

18           Section 6-635. [NEW MATERIAL] DISMISSAL FOR WANT OF  
19 PROSECUTION.--The district court may issue an order dismissing  
20 a proceeding commenced pursuant to the New Mexico Uniform  
21 Parentage Act for want of prosecution only without prejudice.  
22 An order of dismissal for want of prosecution purportedly with  
23 prejudice is void and has only the effect of a dismissal  
24 without prejudice.

25           Section 6-636. [NEW MATERIAL] ORDER ADJUDICATING

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1 PARENTAGE.--

2 A. The district court shall issue an order  
3 adjudicating whether a man alleged or claiming to be the father  
4 is the parent of the child.

5 B. An order adjudicating parentage shall identify  
6 the child by name and date of birth.

7 C. Except as otherwise provided in Subsection D of  
8 this section, the district court may assess filing fees,  
9 reasonable fees of counsel, experts and the child's guardian ad  
10 litem, fees for genetic testing, other costs, necessary travel  
11 and other reasonable expenses incurred in a proceeding pursuant  
12 to this article. The district court may award attorney fees,  
13 which may be paid directly to the attorney, who may enforce the  
14 order in the attorney's own name. The district court may order  
15 these fees, costs and expenses to be paid by any party in  
16 proportions and at times as determined by the court, but not  
17 exceeding twelve years unless there is a substantial showing  
18 that paternity could not have been established and an action  
19 for child support could not have been brought within twelve  
20 years of the child's birth. The court may order the proportion  
21 of any indigent party to be paid from court funds.

22 D. The district court shall not assess fees, costs  
23 or expenses against the support-enforcement agency of this  
24 state or another state, except as provided by other law.

25 E. On request of a party and for good cause shown,

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1 the district court may order that the name of the child be  
2 changed.

3 F. If the order of the district court is at  
4 variance with the child's birth certificate, the district court  
5 shall order the bureau to issue an amended birth registration.

6 G. The judgment or order may contain any other  
7 provision directed against or on behalf of the appropriate  
8 party to the proceeding concerning the duty of past and future  
9 support, the custody and guardianship of the child, visitation  
10 with the child, the furnishing of bond or other security for  
11 the payment of the judgment or any other matter within the  
12 jurisdiction of the court. The judgment or order may direct  
13 the father to pay the reasonable expenses of the mother's  
14 pregnancy, birth and confinement. The court shall order child  
15 support retroactive to the date of the child's birth, but not  
16 to exceed twelve years unless there is a substantial showing  
17 that paternity could not have been established and an action  
18 for child support could not have been brought within twelve  
19 years of the child's birth pursuant to the provisions of  
20 Sections 40-4-11 through 40-4-11.3 NMSA 1978; provided that, in  
21 deciding whether or how long to order retroactive support, the  
22 court shall consider:

23 (1) whether the alleged or presumed father  
24 has absconded or could not be located; and

25 (2) whether equitable defenses are

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1 applicable.

2 H. Support judgments or orders ordinarily shall be  
3 for periodic payments, which may vary in amount. In the best  
4 interest of the child, a lump-sum payment or the purchase of an  
5 annuity may be ordered in lieu of periodic payments of support;  
6 provided, however, nothing in this section shall deprive a  
7 state agency of its right to reimbursement from an appropriate  
8 party should the child be a past or future recipient of public  
9 assistance.

10 I. In determining the amount to be paid by a parent  
11 for support of the child, a court, child support hearing  
12 officer or master shall make such determination in accordance  
13 with the provisions of the child support guidelines pursuant to  
14 Section 40-4-11.1 NMSA 1978.

15 Section 6-637. [NEW MATERIAL] BINDING EFFECT OF  
16 DETERMINATION OF PARENTAGE.--

17 A. Except as otherwise provided in Subsection B of  
18 this section, a determination of parentage is binding on:

19 (1) all signatories to an acknowledgment or  
20 denial of paternity as provided in Article 3 of the New Mexico  
21 Uniform Parentage Act; and

22 (2) all parties to an adjudication by a  
23 district court acting under circumstances that satisfy the  
24 jurisdictional requirements of Section 40-6A-201 NMSA 1978.

25 B. A child is not bound by a determination of

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1 parentage pursuant to the New Mexico Uniform Parentage Act  
2 unless:

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

6 (2) the adjudication of parentage was based on  
7 a finding consistent with the results of genetic testing and  
8 the consistency is declared in the determination or is  
9 otherwise shown;

10 (3) the child was a party or was represented  
11 in the proceeding determining parentage by a guardian ad litem;  
12 or

13 (4) there was a final order in the proceeding  
14 that satisfies the requirements of Paragraph (1), (2) or (3) of  
15 Subsection C of this section.

16 C. In a proceeding to dissolve a marriage, the  
17 district court is deemed to have made an adjudication of the  
18 parentage of a child if the district court acts under  
19 circumstances that satisfy the jurisdictional requirements of  
20 Section 40-6A-201 NMSA 1978, and the final order:

21 (1) expressly identifies a child as a "child  
22 of the marriage", "issue of the marriage", "child of the  
23 parties" or similar words indicating that the husband is the  
24 father of the child;

25 (2) provides for support of the child by the

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1 husband unless paternity is specifically disclaimed in the  
2 order; or

3 (3) contains a stipulation or admission that  
4 the parties are the parents of the child.

5 D. Except as otherwise provided in Subsection B of  
6 this section, a determination of parentage may be a defense in  
7 a subsequent proceeding seeking to adjudicate parentage by a  
8 person who was not a party to the earlier proceeding.

9 E. A party to an adjudication of paternity may  
10 challenge the adjudication only pursuant to the laws of New  
11 Mexico relating to appeal, vacation of judgments or other  
12 judicial review.

13 Section 6-638. [NEW MATERIAL] FULL FAITH AND CREDIT--  
14 DETERMINATION OF PARENTAGE.--A court of this state shall give  
15 full faith and credit to a determination of parentage made by a  
16 court of another state.

17 Section 6-639. [NEW MATERIAL] ENFORCEMENT OF JUDGMENT OR  
18 ORDER.--

19 A. If existence of the father-child relationship is  
20 declared, or paternity or a duty of support has been  
21 acknowledged or adjudicated under the New Mexico Uniform  
22 Parentage Act or under prior law, the obligation of the father  
23 may be enforced in the same or other proceedings by any  
24 interested party.

25 B. The court may order support payments to be made

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1 to the mother, the clerk of the court or a person, corporation  
2 or agency designated to collect or administer such funds for  
3 the benefit of the child, upon such terms as the court deems  
4 appropriate.

5 C. Willful failure to obey the judgment or order of  
6 the court is a civil contempt of the court. All remedies for  
7 the enforcement of judgments apply.

8 Section 6-640. [NEW MATERIAL] MODIFICATION OF JUDGMENT OR  
9 ORDER.--The court has continuing jurisdiction to modify or  
10 revoke a judgment or order for future support.

11 Section 6-641. [NEW MATERIAL] RIGHT TO COUNSEL--FREE  
12 TRANSCRIPT ON APPEAL.--

13 A. At the pretrial hearing and in further  
14 proceedings, any party may be represented by counsel. The  
15 court shall appoint counsel for any party who is unable to  
16 obtain counsel for financial reasons if, in the court's  
17 discretion, appointment of counsel is required in the interest  
18 of justice.

19 B. If a party is financially unable to pay the cost  
20 of a transcript, the court shall furnish on request a  
21 transcript for purposes of appeal.

22 Section 6-642. [NEW MATERIAL] HEARINGS AND RECORDS--  
23 CONFIDENTIALITY.--Notwithstanding any other laws concerning  
24 public hearings and records, any hearing or trial held under  
25 the provisions of the New Mexico Uniform Parentage Act may be

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1 held in closed court without admittance of any person other  
2 than those necessary to the action or proceeding. The court  
3 may order that certain papers and records pertaining to the  
4 action or proceeding, whether part of the permanent record of  
5 the court or any other file maintained by the state or  
6 elsewhere, are subject to inspection only upon consent of the  
7 court; provided, however, that nothing in this section shall  
8 infringe upon the right of the parties to an action or  
9 proceeding to inspect the court record. The provisions of this  
10 section are subject to any rules established by the New Mexico  
11 supreme court.

12 Section 6-643. [NEW MATERIAL] BIRTH RECORDS.--

13 A. Upon order of a court of this state or upon  
14 request of a court of another state, the bureau shall prepare a  
15 new certificate of birth consistent with the findings of the  
16 court and shall substitute the new certificate for the original  
17 certificate of birth.

18 B. The fact that the father-child relationship was  
19 declared after the child's birth shall not be ascertainable  
20 from the new certificate, but the actual place and date of  
21 birth shall be shown.

22 C. The evidence upon which the new certificate was  
23 made and the original birth certificate shall be kept in a  
24 sealed and confidential file and be subject to inspection only  
25 upon order of the court and consent of all interested parties,

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1 or in exceptional cases only upon an order of the court for  
2 good cause shown.

3 ARTICLE 7

4 CHILD OF ASSISTED REPRODUCTION

5 Section 7-701. [NEW MATERIAL] SCOPE OF ARTICLE.--This  
6 article does not apply to the birth of a child conceived by  
7 means of sexual intercourse.

8 Section 7-702. [NEW MATERIAL] PARENTAL STATUS OF DONOR.--  
9 A donor is not a parent of a child conceived by means of  
10 assisted reproduction.

11 Section 7-703. [NEW MATERIAL] PATERNITY OF CHILD OF  
12 ASSISTED REPRODUCTION.--A man who provides sperm for or  
13 consents to assisted reproduction by a woman as provided in  
14 Section 7-704 of the New Mexico Uniform Parentage Act with the  
15 intent to be the parent of her child is a parent of the  
16 resulting child.

17 Section 7-704. [NEW MATERIAL] CONSENT TO ASSISTED  
18 REPRODUCTION.--

19 A. Consent by a woman and a man who intends to be a  
20 parent of a child born to the woman by assisted reproduction  
21 shall be in a record signed by the woman and the man. This  
22 requirement does not apply to a donor.

23 B. Failure of a man to sign a consent required by  
24 Subsection A of this section, before or after birth of the  
25 child, does not preclude a finding of paternity if the woman

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1 and the man, during the first two years of the child's life,  
2 resided together in the same household with the child and  
3 openly held out the child as their own.

4 C. All papers relating to the assisted  
5 reproduction, whether part of a court, medical or any other  
6 file, are subject to inspection only upon an order of the  
7 district court for good cause shown.

8 Section 7-705. [NEW MATERIAL] LIMITATION ON HUSBAND'S  
9 DISPUTE OF PATERNITY.--

10 A. Except as otherwise provided in Subsection B of  
11 this section, the husband of a wife who gives birth to a child  
12 by means of assisted reproduction shall not challenge his  
13 paternity of the child unless:

14 (1) within two years after learning of the  
15 birth of the child, he commences a proceeding to adjudicate his  
16 paternity; and

17 (2) the district court finds that he did not  
18 consent to the assisted reproduction, before or after birth of  
19 the child.

20 B. A proceeding to adjudicate paternity may be  
21 maintained at any time if the district court determines that:

22 (1) the husband did not provide sperm for or,  
23 before or after the birth of the child, consent to assisted  
24 reproduction by his wife;

25 (2) the husband and the mother of the child

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1 have not cohabited since the probable time of assisted  
2 reproduction; and

3 (3) the husband never openly held out the  
4 child as his own.

5 C. The limitation provided in this section applies  
6 to a marriage dissolved or declared invalid after assisted  
7 reproduction.

8 Section 7-706. [NEW MATERIAL] EFFECT OF DISSOLUTION OF  
9 MARRIAGE OR WITHDRAWAL OF CONSENT.--

10 A. If a marriage is dissolved before placement of  
11 eggs, sperm or embryos, the former spouse is not a parent of  
12 the resulting child unless the former spouse consented in a  
13 record that if assisted reproduction were to occur after a  
14 divorce the former spouse would be a parent of the child.

15 B. The consent of a woman or a man to assisted  
16 reproduction may be withdrawn by that person in a record at any  
17 time before placement of eggs, sperm or embryos. A person who  
18 withdraws consent pursuant to this section is not a parent of  
19 the resulting child.

20 Section 7-707. [NEW MATERIAL] PARENTAL STATUS OF DECEASED  
21 PERSON.--If a person who consented in a record to be a parent  
22 by assisted reproduction dies before placement of eggs, sperm  
23 or embryos, the deceased person is not a parent of the  
24 resulting child unless the deceased spouse consented in a  
25 record that if assisted reproduction were to occur after death,

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1 the deceased person would be a parent of the child.

2 ARTICLE 8

3 GESTATIONAL AGREEMENTS

4 Section 8-801. [NEW MATERIAL] GESTATIONAL AGREEMENTS NOT  
5 AUTHORIZED.--

6 A. The New Mexico Uniform Parentage Act does not  
7 authorize or prohibit an agreement between a birth mother and a  
8 man and another woman:

9 (1) in which the birth mother relinquishes all  
10 rights as the parent of a child to be conceived by means of  
11 assisted reproduction; and

12 (2) that provides that the man and the other  
13 woman become the parents of the child.

14 B. If a birth results pursuant to a gestational  
15 agreement pursuant to Subsection A of this section and the  
16 agreement is unenforceable under other law of New Mexico, the  
17 parent-child relationship shall be determined pursuant to  
18 Article 2 of the New Mexico Uniform Parentage Act.

19 ARTICLE 9

20 MISCELLANEOUS PROVISIONS

21 Section 9-901. [NEW MATERIAL] UNIFORMITY OF APPLICATION  
22 AND CONSTRUCTION.--In applying and construing the Uniform  
23 Parentage Act, consideration shall be given to the need to  
24 promote uniformity of the law with respect to its subject  
25 matter among states that enact it.

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1           Section 9-902. [NEW MATERIAL] SEVERABILITY.--If any  
2 provision of the New Mexico Uniform Parentage Act or its  
3 application to a person or circumstance is held invalid, the  
4 invalidity does not affect other provisions or applications of  
5 the New Mexico Uniform Parentage Act that can be given effect  
6 without the invalid provision or application, and to this end,  
7 the provisions of the New Mexico Uniform Parentage Act are  
8 severable.

9           Section 9-903. [NEW MATERIAL] TRANSITIONAL PROVISION.--A  
10 proceeding to adjudicate parentage that was commenced before  
11 the effective date of the New Mexico Uniform Parentage Act is  
12 governed by the law in effect at the time the proceeding was  
13 commenced.

14           Section 10. Section 24-14-2 NMSA 1978 (being Laws 1961,  
15 Chapter 44, Section 2, as amended) is amended to read:

16           "24-14-2. DEFINITIONS.--As used in the Vital Statistics  
17 Act:

18           A. "vital statistics" means the data derived from  
19 certificates and reports of birth, death, spontaneous fetal  
20 death and induced abortion and related reports;

21           B. "system of vital statistics" includes the  
22 registration, collection, preservation, amendment and  
23 certification of vital records and related activities,  
24 including the tabulation, analysis and publication of  
25 statistical data derived from these records;

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1 C. "filing" means the presentation of a  
2 certificate, report or other record of a birth, death,  
3 spontaneous fetal death or adoption for registration by the  
4 [~~vital statistics~~] bureau;

5 D. "registration" means the acceptance by the  
6 [~~vital statistics~~] bureau and the incorporation in its official  
7 records of certificates, reports or other records provided for  
8 in the Vital Statistics Act of births, deaths, spontaneous  
9 fetal deaths, adoptions and legitimations;

10 E. "live birth" means the complete expulsion or  
11 extraction from its mother of a product of human conception,  
12 irrespective of the duration of pregnancy, which after the  
13 expulsion or extraction breathes or shows any other evidence of  
14 life such as beating of the heart, pulsation of the umbilical  
15 cord or definite movement of voluntary muscles, whether or not  
16 the umbilical cord has been cut or the placenta is attached;

17 F. "spontaneous fetal death" means death prior to  
18 the complete expulsion or extraction from its mother of a  
19 product of human conception, irrespective of the duration of  
20 pregnancy, [~~resulting~~] results in other than a live birth and  
21 [~~which~~] that is not an induced abortion; and death is indicated  
22 by the fact that, after the expulsion or extraction, the fetus  
23 does not breathe or show any other evidence of life, such as  
24 beating of the heart, pulsation of the umbilical cord or  
25 definite movement of voluntary muscles;

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1           G. "dead body" means a human body, or parts of such  
2 body or bones thereof other than skeletal remains [~~which~~] that  
3 can be classified as artifacts, dead within the meaning of  
4 Section 12-2-4 NMSA 1978;

5           H. "final disposition" means the burial, interment,  
6 cremation, entombment, pulverization or other authorized  
7 disposition of a dead body or fetus;

8           I. "department" means the department of health [~~and~~  
9 ~~environment department~~];

10          J. "court" means a court of competent jurisdiction;

11          K. "state registrar" means the designated employee  
12 of the public health [~~services~~] division of the [~~health and~~  
13 ~~environment~~] department;

14          L. "vital records" means certificates of birth and  
15 death;

16          M. "induced abortion" means the purposeful  
17 interruption of pregnancy with the intention other than to  
18 produce a live-born infant;

19          N. "physician" means a person authorized or  
20 licensed to practice medicine or osteopathy pursuant to the  
21 laws of this state; [~~and~~]

22          O. "institution" means any establishment, public or  
23 private:

24                 (1) [~~which~~] that provides in-patient medical,  
25 surgical or diagnostic care or treatment;

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1 (2) [~~which~~] that provides nursing, custodial  
2 or domiciliary care; or

3 (3) to which persons are committed by law; and

4 P. "bureau" means the vital records and health  
5 statistics bureau of the public health division of the  
6 department."

7 Section 11. Section 24-14-3 NMSA 1978 (being Laws 1961,  
8 Chapter 44, Section 3, as amended) is amended to read:

9 "24-14-3. VITAL RECORDS AND HEALTH STATISTICS [~~UNIT~~]  
10 BUREAU--STATE SYSTEM.--There is established in the public  
11 health [~~services~~] division of the department a "vital records  
12 and health statistics bureau" for the purpose of installing,  
13 maintaining and operating a system of vital statistics  
14 throughout this state and carrying out all regulations relating  
15 to vital records and health statistics established by the  
16 department."

17 Section 12. Section 24-14-4 NMSA 1978 (being Laws 1961,  
18 Chapter 44, Section 4, as amended) is amended to read:

19 "24-14-4. STATE REGISTRAR--APPOINTMENT.--The [~~director~~]  
20 secretary of the department shall appoint the state registrar  
21 in accordance with the provisions of the [~~state~~] Personnel  
22 Act."

23 Section 13. Section 24-14-5 NMSA 1978 (being Laws 1961,  
24 Chapter 44, Section 5, as amended) is amended to read:

25 "24-14-5. DUTIES OF STATE REGISTRAR.--

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A. The state registrar shall:

(1) administer and enforce the Vital Statistics Act and regulations issued pursuant to it and issue instructions for the efficient administration of the ~~[state]~~ system of vital records and health statistics;

(2) direct and supervise the ~~[state]~~ system of vital records and health statistics and be custodian of its records;

(3) direct, supervise and control the activities of all public employees, other than hospital employees, when they are engaged in activities pertaining to the operation of the system of vital records and health statistics ~~[system]~~;

(4) prescribe, with the approval of the department and after consultation with medical records professionals in the state, furnish and distribute such forms as are required by the Vital Statistics Act;

(5) prepare and publish reports of vital records and health statistics of this state and such other reports as may be required by the department;

(6) conduct training programs to promote uniformity of policy and procedures throughout the state; and

(7) provide to local health agencies copies of or data derived from certificates and reports required under the Vital Statistics Act as determined necessary for local

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1 health planning and program activities. The copies or data  
2 shall remain the property of the [~~vital statistics~~] bureau, and  
3 the uses [~~which~~] that may be made of them shall be prescribed  
4 by the state registrar.

5 B. The state registrar may establish or designate  
6 offices in the state to aid in the efficient administration of  
7 the system of vital records and health statistics and may  
8 delegate such functions and duties vested in [~~him~~] the state  
9 registrar to employees of the [~~vital statistics~~] bureau and to  
10 employees of any office of the state or political subdivision  
11 designated to aid in administering the Vital Statistics Act."

12 Section 14. Section 24-14-12 NMSA 1978 (being Laws 1961,  
13 Chapter 44, Section 12, as amended) is amended to read:

14 "24-14-12. FORM AND CONTENTS OF CERTIFICATES AND  
15 REPORTS.--

16 A. In order to promote and maintain uniformity in  
17 the system of vital records and health statistics, the forms of  
18 certificates, reports and other returns required by the Vital  
19 Statistics Act or by regulations adopted pursuant to that act  
20 shall include as a minimum the items recommended by the federal  
21 agency responsible for national vital records and health  
22 statistics, subject to the approval of modifications by the  
23 department.

24 B. Each certificate, report and other document  
25 required to be registered under the Vital Statistics Act shall

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1 be on a form or in a format prescribed by the state registrar.

2 C. All vital records shall contain the date  
3 received for registration.

4 D. Information required in certificates or reports  
5 required or authorized by the Vital Statistics Act may be filed  
6 and registered by photographic, electronic or other means as  
7 prescribed by the state registrar; provided that certificates  
8 shall be filed and registered by either physical or  
9 photographic means."

10 Section 15. Section 24-14-13 NMSA 1978 (being Laws 1961,  
11 Chapter 44, Section 13, as amended) is amended to read:

12 "24-14-13. BIRTH REGISTRATION.--

13 A. A certificate of birth for each live birth  
14 [~~which~~] that occurs in this state shall be filed with the  
15 [~~vital statistics~~] bureau [~~of the public health division of the~~  
16 ~~department~~] or as otherwise directed by the state registrar  
17 within ten days after the birth and shall be registered if it  
18 has been completed and filed in accordance with this section.  
19 When a birth, however, occurs on a moving conveyance, a birth  
20 certificate shall be registered in this state and the place  
21 where the child is first removed shall be considered the place  
22 of birth.

23 B. When a birth occurs in an institution, the  
24 person in charge of the institution or [~~his~~] the person's  
25 designated representative shall obtain the personal data,

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1 prepare the certificate of birth, secure the signatures  
2 required and file it as directed in this section. The  
3 physician or other person in attendance shall certify the  
4 medical information required by the certificate of birth within  
5 ten working days after the birth in accordance with policies  
6 established by the institution where the birth occurred. The  
7 person in charge of the institution or [~~his~~] the person's  
8 designee shall complete and sign the certificate of birth.

9 C. When a birth occurs outside an institution, the  
10 certificate of birth shall be prepared and filed by one of the  
11 following in the indicated order of priority:

12 (1) the physician in attendance at or  
13 immediately after the birth;

14 (2) any other person in attendance at or  
15 immediately after the birth [~~or in the absence of this person~~];  
16 or

17 (3) the father, the mother or, in the absence  
18 of the father and the inability of the mother, the person in  
19 charge of the premises where the birth occurred.

20 D. If the mother was married at the time of either  
21 conception or birth, the name of the husband shall be entered  
22 on the certificate of birth as the father of the child, unless  
23 paternity has been determined pursuant to Subsection F or G of  
24 this section or by a court, in which case the name of the  
25 father as determined pursuant to Subsection F or G of this

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1 section or by the court shall be entered.

2 E. If the mother was not married at the time of  
3 either conception or birth, but the mother and father [~~has~~]  
4 have signed under penalty of perjury an acknowledgment of  
5 paternity [~~as~~] on a form provided by [~~this section~~] the bureau  
6 pursuant to the New Mexico Uniform Parentage Act, the father's  
7 name, date of birth and social security number shall be entered  
8 on the [~~acknowledgement~~] acknowledgment of paternity. The name  
9 of the father shall not be entered on the certificate of birth  
10 without [~~the written consent of~~] such a written acknowledgment  
11 of paternity signed under penalty of perjury by the mother and  
12 the person to be named as the father, unless a determination of  
13 paternity has been made by a court, in which case the name of  
14 the father as determined by the court shall be entered.

15 F. At or before the birth of a child to an  
16 unmarried woman, the person in charge of the institution, a  
17 designated representative, the attending physician or midwife  
18 shall:

19 (1) provide an opportunity for the child's  
20 mother and [~~natural~~] father to [~~complete~~] sign under penalty of  
21 perjury an [~~acknowledgement~~] acknowledgment of paternity on a  
22 form provided by the bureau pursuant to the New Mexico Uniform  
23 Parentage Act. The completed [~~affidavit~~] acknowledgment of  
24 paternity shall be filed with the [~~vital statistics~~] bureau [~~of~~  
25 ~~the public health division of the department~~]. The

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1 ~~[acknowledgement]~~ acknowledgment shall contain or have attached  
2 to it:

3 (a) a ~~[sworn]~~ statement by the mother  
4 consenting to the assertion of paternity;

5 (b) a ~~[sworn]~~ statement by the father  
6 that he is the ~~[natural]~~ father of the child;

7 (c) written information, furnished by  
8 the human services department, explaining the implications of  
9 signing, including legal parental rights and responsibilities;  
10 and

11 (d) the social security numbers of both  
12 parents; and

13 (2) provide written information, furnished by  
14 the human services department, to the mother and father ~~[or~~  
15 ~~putative father]~~, regarding the benefits of having the child's  
16 paternity established and of the availability of paternity  
17 establishment services and child support enforcement services.

18 G. If a married mother claims that her husband is  
19 not the father of the child, the husband ~~[agrees that he is not~~  
20 ~~the father]~~ signs under penalty of perjury a denial of  
21 paternity on a form provided by the bureau pursuant to the New  
22 Mexico Uniform Parentage Act and the ~~[putative father]~~ non-  
23 husband agrees that he is the father, an ~~[acknowledgement]~~  
24 acknowledgment of paternity may be signed under penalty of  
25 perjury by the ~~[respective parties and duly notarized]~~ mother

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1 and the non-husband. Upon filing [~~this affidavit~~] the  
2 acknowledgment of paternity and the denial of paternity with  
3 the [~~state registrar~~] bureau, the name of the non-husband shall  
4 be entered on the certificate of birth as the father.

5 H. Pursuant to an interagency agreement for proper  
6 reimbursement, the [~~vital statistics~~] bureau [~~of the public~~  
7 ~~health division of the department~~] shall make available to the  
8 human services department the birth certificate, the mother's  
9 and father's social security numbers and paternity  
10 [~~acknowledgements~~] acknowledgments. The human services  
11 department shall use these records only in conjunction with its  
12 duties as the state IV-D agency responsible for the child  
13 support program under Title IV-D of the federal Social Security  
14 Act.

15 I. Each party shall be provided with copies of any  
16 acknowledgment of paternity and any related denial of  
17 paternity."

18 Section 16. Section 24-14-16 NMSA 1978 (being Laws 1961,  
19 Chapter 44, Section 16, as amended) is amended to read:

20 "24-14-16. JUDICIAL PROCEDURE TO ESTABLISH FACTS OF  
21 BIRTH.--

22 A. If a delayed certificate of birth is rejected  
23 under the provisions of Section 24-14-15 NMSA 1978, a petition  
24 may be filed with a court for an order establishing a record of  
25 the date and place of the birth and the parentage of the person

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1 whose birth is to be registered.

2 B. The petition shall allege that:

3 (1) the person for whom a delayed certificate  
4 of birth is sought was born in this state;

5 (2) no record of birth of the person can be  
6 found in the [~~vital statistics~~] bureau;

7 (3) diligent efforts by the petitioner have  
8 failed to obtain the evidence required in accordance with  
9 Section 24-14-15 NMSA 1978;

10 (4) the state registrar has refused to  
11 register a delayed certificate of birth; and

12 (5) any other allegations as may be required.

13 C. The petition shall be accompanied by a statement  
14 of the registration official made in accordance with Section  
15 24-14-15 NMSA 1978 and all documentary evidence [~~which~~] that  
16 was submitted to the registration official in support of the  
17 registration. The petition shall be sworn to by the  
18 petitioner.

19 D. The court shall fix a time and place for hearing  
20 the petition and shall give the registration official who  
21 refused to register the petitioner's delayed certificate of  
22 birth ten days' notice of the hearing. The official or [~~his~~]  
23 the official's authorized representative may appear and testify  
24 in the proceeding.

25 E. If the court finds from the evidence presented

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1     ~~[finds]~~ that the person for whom a delayed certificate of birth  
2     is sought was born in this state, it shall make findings as to  
3     the place and date of birth, parentage and other findings as  
4     the case may require and shall issue an order to establish a  
5     record of birth. This order shall include the birth data to be  
6     registered, a description of the evidence presented in the  
7     manner prescribed by Section 24-14-15 NMSA 1978 and the date of  
8     the court's action.

9             F. The court shall determine the parent-child  
10            relationship of the mother and father pursuant to Section 2-201  
11            of the New Mexico Uniform Parentage Act.

12            ~~[F-]~~ G. The clerk of the court shall forward each  
13     order to the state registrar not later than the tenth day of  
14     the calendar month following the month in which it was entered.  
15     The order shall be registered by the state registrar and shall  
16     constitute the record of birth from which copies may be issued  
17     in accordance with Sections 24-14-28 and 24-14-29 NMSA 1978."

18            Section 17. Section 24-14-25 NMSA 1978 (being Laws 1961,  
19     Chapter 44, Section 23, as amended) is amended to read:

20            "24-14-25. CORRECTION AND AMENDMENT OF VITAL RECORDS.--

21            A. A certificate or report registered under the  
22     Vital Statistics Act may be amended only in accordance with  
23     that act and regulations ~~[thereunder]~~ adopted by the department  
24     pursuant to that act to protect the integrity and accuracy of  
25     vital records and health statistics ~~[records]~~.

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1           B. Upon receipt of a certified copy of a court  
2 order changing the name of a person born in this state and upon  
3 request of the person or [~~his~~] the person's parent, guardian or  
4 legal representative, the state registrar shall amend the  
5 original certificate of birth to reflect the new name.

6           C. Upon request and receipt of [~~a sworn~~] an  
7 acknowledgement of paternity signed under penalty of perjury by  
8 both parents of a child born [~~out of wedlock signed by both~~  
9 ~~parents~~] to an unmarried mother or, in the case of a married  
10 mother, [~~as provided for in Subsection F of Section 24-14-13~~  
11 ~~NMSA 1978~~] upon receipt of an acknowledgment of paternity  
12 signed under penalty of perjury by the mother and the non-  
13 husband and of a denial of paternity signed under penalty of  
14 perjury by the husband, the state registrar shall amend a  
15 certificate of birth to show the paternity if paternity is not  
16 shown on the birth certificate. The certificate of birth shall  
17 not be marked "amended".

18           D. Upon receipt of a [~~duly notarized~~] statement  
19 [~~from~~] signed under penalty of perjury by the person in charge  
20 of an institution or from the attending physician indicating  
21 that the sex of an individual born in this state has been  
22 changed by surgical procedure, together with a certified copy  
23 of an order changing the name of the person, the certificate of  
24 birth of the individual shall be amended as prescribed by  
25 regulation.

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1           E. When an applicant does not submit the minimum  
2 documentation required in the regulations for amending a vital  
3 record or when the state registrar has reasonable cause to  
4 question the validity or adequacy of the applicant's ~~sworn~~  
5 statements or statements made under penalty of perjury or the  
6 documentary evidence and if the deficiencies are not corrected,  
7 the state registrar shall not amend the vital records and shall  
8 advise the applicant of the reason for this action.

9           F. A certificate or report that is amended under  
10 this section shall be marked "amended", except as otherwise  
11 provided in Subsection C of this section. The date of the  
12 amendment and a summary description of the evidence submitted  
13 in support of the amendment shall be endorsed on or made a part  
14 of the record. The department shall prescribe by regulation  
15 the conditions under which additions or minor corrections may  
16 be made to certificates or records within one year after the  
17 date of the event without the certificate or record being  
18 marked "amended".

19           Section 18. Section 32A-5-20 NMSA 1978 (being Laws 1993,  
20 Chapter 77, Section 147) is amended to read:

21           "32A-5-20. PUTATIVE FATHER REGISTRY--NOTICE--PENALTY.--

22           A. The purpose of the putative father registry is  
23 to protect the parental rights of fathers who affirmatively  
24 assume responsibility for children they may have fathered and  
25 to expedite adoptions of children whose biological fathers are

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1 unwilling to assume responsibility for their children by  
2 registering with the putative father registry or otherwise  
3 acknowledging their children. The registry does not relieve  
4 the obligation of mothers to identify known fathers.

5 B. A putative father registry shall be established  
6 by the department of health to record the names and addresses  
7 of:

8 (1) any person adjudicated by a court of this  
9 state to be the father of a child;

10 (2) any person who has filed with the  
11 registry, before or after birth of a child out of wedlock, a  
12 notice of intent to claim paternity of the child;

13 (3) any person who has filed with the registry  
14 an instrument acknowledging paternity; or

15 (4) any person adjudicated by a court of  
16 another state or territory of the United States to be the  
17 father of an out-of-wedlock child, when a certified copy of the  
18 court order has been filed with the registry.

19 C. A person filing a notice of intent to claim  
20 paternity of a child or an acknowledgment of paternity shall  
21 include in the notice the following:

22 (1) his name;

23 (2) his current address;

24 (3) the mother's name and any other

25 identifying information requested by the department of health;



underscored material = new  
[bracketed material] = delete

1 and

2 (4) the child's name, if known, and any other  
3 identifying information requested by the department of health.

4 D. If the person filing the notice of intent to  
5 claim paternity of a child or acknowledgment changes his  
6 address, the person shall notify the department of health of  
7 his new address in the manner prescribed by the department of  
8 health.

9 E. A person who has filed a notice of intent to  
10 claim paternity may at any time revoke a notice of intent to  
11 claim paternity previously filed. Upon receipt by the registry  
12 of the notice of revocation, the revoked notice of intent to  
13 claim paternity shall be deemed a nullity nunc pro tunc.

14 F. No registration fee shall be charged for  
15 registering the intent to claim paternity of a child or  
16 acknowledgment of paternity. The department of health may  
17 charge a reasonable fee as prescribed by regulation for  
18 processing searches of the putative father registry.

19 G. An unrevoked notice of intent to claim paternity  
20 of a child may be introduced in evidence by any party in any  
21 proceeding in which that fact may be relevant.

22 ~~[H. The department of health shall, upon request,~~  
23 ~~provide the names and addresses of persons listed with the~~  
24 ~~registry to any court, the department, an agency, the~~  
25 ~~petitioner's attorney or the mother of the child. The~~

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1 ~~information shall not be divulged to any other person, except~~  
2 ~~upon order of the court for good cause shown. If the registry~~  
3 ~~has not received a notice of intent to claim paternity or an~~  
4 ~~acknowledgment of paternity, the department of health shall~~  
5 ~~provide a written statement to that effect to the person making~~  
6 ~~the inquiry. The person making inquiry shall provide a self-~~  
7 ~~addressed, stamped envelope to the department of health for the~~  
8 ~~department's response to the inquiry.]~~

9 H. If a father-child relationship has not been  
10 established pursuant to the New Mexico Uniform Parentage Act, a  
11 petitioner for adoption of or termination of parental rights  
12 regarding a child shall obtain a certificate of search of the  
13 putative father registry.

14 I. If a petitioner for adoption of or termination  
15 of parental rights regarding a child has reason to believe that  
16 the conception or birth of the child may have occurred in  
17 another state, the petitioner shall also obtain a certificate  
18 of search from the putative father registry, if any, in that  
19 state.

20 J. The department of health shall furnish to the  
21 requester a certificate of search of the registry on request of  
22 any court, a state agency, the department, the petitioner's  
23 attorney or the mother of the child. The information shall not  
24 be disclosed to any other person, except upon order of the  
25 court for good cause shown. The requester shall furnish the

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1 department with a stamped, self-addressed reply envelope.

2 K. A certificate provided by the department of  
3 health shall be signed on behalf of the department of health  
4 and state that:

5 (1) a search has been made of the registry;  
6 and

7 (2) a registration containing the information  
8 required to identify the registrant:

9 (a) has been found and is attached to  
10 the certificate of search; or

11 (b) has not been found.

12 L. A petitioner shall file the certificate of  
13 search with the district court before a proceeding for adoption  
14 of or termination of parental rights regarding a child may be  
15 concluded.

16 M. Subject to any rules established by the New  
17 Mexico supreme court, a certificate of search of the registry  
18 of paternity in this or another state is admissible in a  
19 proceeding for adoption of or termination of parental rights  
20 regarding a child and, if relevant, in other legal proceedings.

21 ~~[F.]~~ N. The department of health may promulgate any  
22 regulations or forms necessary to implement the provisions of  
23 this section.

24 ~~[J.]~~ O. Any person who intentionally and unlawfully  
25 releases information from the putative father registry to the

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~~[bracketed material]~~ = delete

1 public or makes any other unlawful use of the information in  
2 violation of the provisions of this section is guilty of a  
3 petty misdemeanor and shall be sentenced pursuant to the  
4 provisions of Section 31-19-1 NMSA 1978."

5 Section 19. REPEAL.--Sections 40-11-1 through 40-11-23  
6 NMSA 1978 (being Laws 1986, Chapter 47, Sections 1 through 23,  
7 as amended) are repealed.

8 Section 20. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is January 1, 2009.