Legislative Council,
General Assembly
State of Delaware

Title 13

Domestic Relations

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Chapter 1
Marriage
Subchapter I
General Provisions

§ 101. Void and voidable marriages.

(a) A marriage is prohibited and void between a person and such person's ancestor, descendant, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew or first cousin.

(b) A marriage is prohibited, and is void from the time its nullity is declared by a court of competent jurisdiction at the instance of the innocent party, if either party thereto is:

(1)-(5) [Repealed.]

(6) Divorced, unless a certified copy of the divorce decree (last decree if such person has been divorced more than once) or a certificate of such divorce from the clerk of the court granting the divorce is inspected by the clerk of the peace to whom such person makes application for a marriage license, and unless such person may in other respects lawfully marry; and, if such decree or certificate cannot be obtained, the Resident Judge of the county where such license is desired or the person designated by the Resident Judge to grant such certificates as may be accepted under this paragraph (b)(6) may grant a certificate of the facts as stated by the applicant and the certificate may, for the purposes of this chapter, be accepted in lieu of a certified copy of a divorce decree;

(7) [Repealed.]

(c) [Repealed.]

(d) A marriage obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid marriage within the State.

(e) For all purposes of the laws of this State, 2 persons of the same gender who are parties to a legal union other than a marriage (whether designated as a civil union, a domestic partnership or another relationship) established in another jurisdiction shall be afforded and shall be subject to the same rights, benefits, protections, responsibilities, obligations and duties as are afforded and imposed upon married spouses (whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity) if:

(1) Such legal union was validly entered into in such other jurisdiction;

(2) Such legal union would not be prohibited as a marriage by reason of subsection (a) of this section; and

(3) Such legal union affords and imposes on such individuals under the laws of the jurisdiction establishing such union substantially the same rights, benefits, protections, responsibilities, obligations and duties as a marriage.

(Code 1852, §§ 1435-1437; 27 Del. Laws, c. 261, § 1; Code 1915, § 2992; 32 Del. Laws, c. 182, § 1; Code 1935, § 3485; 13 Del. C. 1953, § 101; 52 Del. Laws, c. 204; 54 Del. Laws, c. 34, § 1; 62 Del. Laws, c. 76, § 1; 65 Del. Laws, c. 472, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 375, §§ 1, 2; 76 Del. Laws, c. 48, § 1; 77 Del. Laws, c. 47, § 1; 79 Del. Laws, c. 19, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 67, § 7.)

§ 102. Entering into a prohibited marriage; penalty.

The guilty party or parties to a marriage prohibited by § 101 of this title shall be fined $100, and in default of the payment of the fine shall be imprisoned not more than 30 days.

(Code 1852, §§ 1435-1437; 27 Del. Laws, c. 261, § 1; Code 1915, § 2992; 32 Del. Laws, c. 182, § 1; Code 1935, § 3485; 13 Del. C. 1953, § 102.)

§ 103. Issuing license for or solemnizing prohibited marriage; penalty.

Whoever, being authorized to issue a marriage license, knowingly or wilfully issues a license for a marriage prohibited by this chapter or, being authorized to solemnize a marriage, knowingly or wilfully assists in the contracting or solemnizing of a prohibited marriage, shall be fined $100, and in default of the payment of such fine shall be imprisoned not more than 30 days.

(Code 1852, §§ 1435-1437; 27 Del. Laws, c. 261, § 1; Code 1915, § 2992; 32 Del. Laws, c. 182, § 1; Code 1935, § 3485; 13 Del. C. 1953, § 103.)

§ 104. Entering into prohibited marriage outside the State; penalty.

If a marriage prohibited by this chapter is contracted or solemnized outside of the State, when the legal residence of either party to the marriage is in this State, and the parties thereto shall afterwards live and cohabit as spouses within the State, they shall be punished in the same manner as though the marriage had been contracted in this State.

(27 Del. Laws, c. 261, § 1; Code 1915, § 2992; 32 Del. Laws, c. 182, § 1; Code 1935, § 3485; 13 Del. C. 1953, § 104; 70 Del. Laws, c. 186, § 1.)

§ 105. Status of children of prohibited marriages.

Children of void or voidable marriages shall be deemed to be legitimate.

(27 Del. Laws, c. 261, § 1; Code 1915, § 2992; 32 Del. Laws, c. 182, § 1; Code 1935, § 3485; 13 Del. C. 1953, § 105.)

§ 106. Individuals authorized to solemnize marriages; requirements to solemnize marriage; penalty.

(a) (1) For purposes of this subsection, "chief executive officer" means the mayor of an incorporated municipality. If an incorporated municipality does not have a mayor, then "chief executive officer" means the president of the legislative body of the incorporated municipality. If an incorporated municipality does not have a mayor or a president of the legislative body, then "chief executive officer" means the presiding officer of the legislative body of the incorporated municipality.

(2) The following individuals over 18 years of age may solemnize a marriage between individuals who may lawfully enter into the matrimonial relation:

a. A clergyperson or minister of any religion who resides in the State, provided such clergyperson or minister is registered with the Clerk of the Peace in the county where such clergyperson or minister resides.

b. A clergyperson or minister of any religion who does not reside in the State, provided such clergyperson or minister is registered with the Clerk of the Peace in the county where the marriage ceremony is to be performed.

c. A current or former judge of this State's Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, or Justice of the Peace Court.

d. A current or former federal judge or magistrate with jurisdiction over this State.

e. A current or former Clerk of the Peace of a county of this State, within the county in which the Clerk holds or held that office.

f. The chief executive officer of an incorporated municipality of this State, within the corporate limits of that municipality.

(3) For good cause being shown, the Clerk of the Peace for the county in which a marriage is to be performed may allow by written authorization all of the following to solemnize a marriage between individuals who may lawfully enter into the matrimonial relation:

a. A current or former judge of another state's judiciary.

b. A current or former federal judge or magistrate with jurisdiction over a state other than this State.

c. A current Clerk of the Peace from another county within this State.

(4) Marriages shall be solemnized in the presence of at least 2 reputable witnesses who are at least 18 years of age and who shall sign the certificate of marriage as prescribed by this chapter. Marriages may be solemnized or contracted according to the forms and usages of any religious society or in an entirely secular manner. No marriage shall be solemnized or contracted without the production of a license issued pursuant to this chapter.

(b) The Clerk of the Peace in each county shall maintain an online registry through which clergypersons or ministers of any religion must register.

(1) Upon registering, registrants shall receive a registration card online bearing the registrant's personal registration number. That registration number must be entered on the certificate of marriage of each marriage ceremony performed by the registrant.

(2) Once registered with a Clerk of the Peace in any county, a registrant's name will be added to a statewide registry accessible to the public online.

(3) Once registered with a Clerk of the Peace in any county, a registrant will be authorized to solemnize marriages statewide.

(c) Any clergyperson or minister who, while not registered in accordance with this section, solemnizes a marriage shall be subject to a noncriminal penalty imposed by the Clerk of the Peace in the county where the marriage was performed, which shall include suspension or revocation of authorization to solemnize further marriages in the State.

(d) In the case of absence or disability of the duly elected Clerk of the Peace, the chief deputy or, if there is no chief deputy, a deputy or acting deputy employed in the office of and appointed by the Clerk of the Peace, shall be authorized to solemnize marriages.

(e) Whoever, not being authorized by this section, solemnizes a marriage, shall be fined $100, and in default of the payment of such fine shall be imprisoned not more than 30 days, and such marriage shall be void, unless it is in other respects lawful and is consummated with the full belief of either of the parties in its validity.

(f) Other than as provided in this subsection, nothing in this section shall be construed to require any individual, including any clergyperson or minister of any religion, authorized to solemnize a marriage to solemnize any marriage, and no such authorized individual who fails or refuses for any reason to solemnize a marriage shall be subject to any fine or other penalty for such failure or refusal. Notwithstanding the preceding sentence, a Clerk of the Peace who issues a marriage license, or a deputy thereof, shall be required to perform a solemnization of such marriage if requested by the applicants for such license.

(Code 1852, §§ 1438-1440; 17 Del. Laws, c. 207, § 9; 26 Del. Laws, c. 244, § 6; 27 Del. Laws, c. 261, § 2; Code 1915, §§ 2141, 2993; 32 Del. Laws, c. 182, § 1; Code 1935, §§ 2434, 3486; 13 Del. C. 1953, § 106; 49 Del. Laws, c. 220, § 12; 54 Del. Laws, c. 126, § 1; 57 Del. Laws, c. 129, § 1; 59 Del. Laws, c. 34, § 1; 63 Del. Laws, c. 21, §§ 1, 2; 63 Del. Laws, c. 403, § 1; 70 Del. Laws, c. 30, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 307, §§ 1, 2; 71 Del. Laws, c. 289, § 2; 72 Del. Laws, c. 82, § 1; 75 Del. Laws, c. 113, § 1; 76 Del. Laws, c. 24, § 1; 77 Del. Laws, c. 272, §§ 1-3; 79 Del. Laws, c. 19, § 2; 80 Del. Laws, c. 210, § 1; 82 Del. Laws, c. 95, § 1; 83 Del. Laws, c. 236, § 1; 84 Del. Laws, c. 42, § 1.)

§ 107. Marriage licenses; obtaining and delivery.

(a) Persons intending to be married within this State shall obtain a marriage license at least 24 hours prior to the time of the ceremony.

(b) The license must be delivered to the person who is to officiate before the marriage can be lawfully performed. If the marriage is to be performed by or before any religious society, the license shall be delivered to the religious society or any officer thereof who is duly qualified according to § 106 of this title.

(c) A marriage license issued pursuant to this chapter shall entitle the parties thereto, subject to the other provisions of this chapter, to marry within 30 days from the date of its issuance. In the event the marriage ceremony is not performed within 30 days, said license shall be void and the parties must reapply to the appropriate issuing officer for another license to marry. No refund or rebate shall be given for the unused license, nor shall said license be reinstated or postdated. The procedure to secure another license shall be the same as that provided for the initial application.

(d) The Clerk of the Peace in each county for good cause being shown may:

(1) Shorten the time periods specified in subsection (a) of this section; or

(2) Lengthen the time period specified in subsection (c) of this section not to exceed 180 days.

(27 Del. Laws, c. 261, § 3; Code 1915, § 2994; 32 Del. Laws, c. 182, § 1; Code 1935, § 3487; 13 Del. C. 1953, § 107; 53 Del. Laws, c. 136; 63 Del. Laws, c. 21, § 3; 71 Del. Laws, c. 289, § 1; 76 Del. Laws, c. 63, § 1.)

§ 108. Fee for issuing marriage licenses; prohibition of other charges.

Clerks of the peace shall issue marriage licenses for $10 each, $4.00 of which shall be deposited by the clerks of the peace with the Department of Health and Social Services for each license delivered to the various clerks of the peace to defray the costs of the various forms and certificates required by this chapter. No charge shall be made for investigation to establish the validity of any papers required of certain applicants for marriage licenses under this chapter, nor shall any person in this State make any charge for the execution of any papers required under this chapter, except that this shall not be construed to prohibit a charge for the execution of any affidavits that are required under this chapter, and except that a charge may be made for the marriage license as provided in this chapter.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 108; 54 Del. Laws, c. 126, § 2; 58 Del. Laws, c. 357, § 1; 63 Del. Laws, c. 220, §§ 1, 2; 70 Del. Laws, c. 149, § 8.)

§ 109. Licenses issued by the clerk of the peace.

The several clerks of the peace of the various counties or their deputies, also known as the Marriage Bureau, shall issue all marriage licenses and shall sign them and affix the county seal thereto.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 109; 54 Del. Laws, c. 126, § 3; 77 Del. Laws, c. 100, § 1.)

§ 110. Limitations on issuance of license.

No marriage license shall be issued by a clerk of the peace when either of the parties applying for license to marry, at the time of making the application, is under the influence of intoxicating liquor or a narcotic drug or if papers that are required by this chapter are not delivered or if the issuing officer believes there is any legal impediment, as defined in this chapter, to the marriage of such parties.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 110; 54 Del. Laws, c. 126, § 4.)

§ 111. Establishing validity of papers submitted by applicants; filing and inspection.

Clerks of the peace shall examine and satisfy themselves of the validity of papers submitted to them by divorced persons and past or present patients of Delaware Psychiatric Center or other designated psychiatric treatment facilities as defined in § 5001 of Title 16, and shall file such papers in the office of the recorder of the appropriate county. Such papers shall constitute a part of the application for marriage license, but shall be open to inspection of the public only upon order of the Resident Judge of the proper county or such person as the Judge may appoint to give such orders.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 111; 81 Del. Laws, c. 235, § 1; 85 Del. Laws, c. 67, § 8.)

§ 112. Violations by clerk of the peace; penalties.

Any clerk of the peace or deputy of such who knowingly or wilfully acts in violation of this chapter shall be fined $100, and in default of payment of such fine shall be imprisoned not more than 30 days.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 112; 54 Del. Laws, c. 126, § 5.)

§ 113. Supplies of marriage licenses, books and other forms; form.

(a) Marriage licenses, and other forms and books used in connection with the issuance of marriage licenses shall be furnished by the Department of Health and Social Services on request of the clerks of the peace.

(b) Judges shall supply certificates in whatever form they see fit to such divorced persons as they believe should receive them under this chapter.

(c) Superintendents of asylums for the insane shall supply certificates in whatever form they see fit to such persons as they believe should receive them under this chapter.

(d) [Repealed.]

(e) Marriage licenses, books and forms shall be as prescribed by the Department of Health and Social Services or in this chapter. Each page of the Marriage Record Books for the use of clerks of the peace shall be numbered serially before delivery to the clerks of the peace.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 113; 54 Del. Laws, c. 126, § 6; 70 Del. Laws, c. 149, §§ 9, 10; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 67, § 9.)

§ 114. Retention of marriage license by celebrant.

The person performing the marriage ceremony shall retain the original or a copy of the marriage license, as the Department of Health and Social Services shall direct, for not less than 1 year after the ceremony.

(27 Del. Laws, c. 261, § 4; Code 1915, § 2995; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 1; Code 1935, § 3488; 13 Del. C. 1953, § 114; 54 Del. Laws, c. 126, § 7; 70 Del. Laws, c. 149, § 11.)

§ 115. Forms for marriage license; certificates of marriage.

(a) The Department of Health and Social Services shall prescribe a marriage license form which shall be issued by the several clerks of the peace and such other forms, books, dockets and records as may be necessary to properly record marriages and the issuance of marriage licenses. The marriage license shall contain language authorizing any minister of the gospel or other person authorized by the law of the State to solemnize marriage and shall show: The earliest and latest time the marriage may be performed pursuant to the license, the place of issuance of the license, the names of the parties, the signature of the issuing authority and such other wording as the Department of Health and Social Services may prescribe. The license shall also contain a form of certification by the person performing the ceremony that the ceremony was performed and the date and time of the ceremony.

(b) The Department of Health and Social Services shall furnish to all persons authorized by law to solemnize marriages a suitable form for evidencing the marriage and the date and the place thereof, which form shall be completed and delivered without charge to the bride by the celebrant immediately after the ceremony. Such form may, but need not, be the original or a copy of the marriage license.

(27 Del. Laws, c. 261, § 5; Code 1915, § 2996; 32 Del. Laws, c. 182, § 1; 38 Del. Laws, c. 161, § 1; Code 1935, § 3489; 13 Del. C. 1953, § 115; 54 Del. Laws, c. 126, § 8; 70 Del. Laws, c. 149, § 12; 70 Del. Laws, c. 186, § 1.)

§ 116. Duties of officer issuing marriage license.

(a) The number on the marriage license shall be filled in by the issuing officer unless it has been previously affixed and shall be the same number as that appearing on the application. The issuing officer shall immediately note the issuance of a license in the appropriate Marriage Record Book prescribed by the Department of Health and Social Services.

(b) The officer issuing the license shall fill in all the blanks provided on the license. The place and precise time of issue and the earliest and latest time when the holders of the license may marry shall be shown and the issuing officer shall sign the marriage license.

(c) If any clerk of the peace fails to perform the duties required by this section, such clerk shall be fined $100.

(27 Del. Laws, c. 84, § 15; 27 Del. Laws, c. 261, §§ 5, 6; Code 1915, §§ 2996, 2997; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 2; 38 Del. Laws, c. 161, § 1; Code 1935, §§ 3489, 3490; 13 Del. C. 1953, § 116; 54 Del. Laws, c. 126, § 9; 70 Del. Laws, c. 149, § 13; 70 Del. Laws, c. 186, § 1.)

§ 117. Forms to be sent to clerk of the peace; duties of the clerk.

(a) The person performing the marriage shall, within 4 days after the ceremony, return to the issuing clerk of the peace such forms and papers as the Department of Health and Social Services may prescribe.

(b) The clerk of the peace shall immediately enter in the Marriage Record Book, as prescribed by the Department of Health and Social Services, the date of the marriage and the name of the person performing the ceremony.

(27 Del. Laws, c. 261, § 5; Code 1915, § 2996; 32 Del. Laws, c. 182, § 1; 38 Del. Laws, c. 161, § 1; Code 1935, § 3489; 13 Del. C. 1953, § 117; 54 Del. Laws, c. 126, § 10; 70 Del. Laws, c. 149, § 14.)

§ 118. Failure to return certificate of marriage to clerk of the peace for recording; penalty.

(a) Any person officiating a marriage in this State who fails to return the certificate of marriage to the issuing clerk of the peace for recording within 15 days of the marriage ceremony shall be assessed a $50 late fee by the issuing clerk of the peace.

(b) Any person with an unpaid civil penalty assessed by a clerk of the peace shall have that person’s authorization to solemnize marriages in the State suspended until such penalty is paid in full.

(27 Del. Laws, c. 261, § 5; Code 1915, § 2996; 32 Del. Laws, c. 182, § 1; 38 Del. Laws, c. 161, § 1; Code 1935, § 3489; 13 Del. C. 1953, § 118; 54 Del. Laws, c. 126, § 11; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 140, § 1.)

§ 119. Public records; evidence.

Such marriage forms and records as may be prescribed by the Department of Health and Social Services shall be kept by the issuing officer in the issuing officer's office. They shall be public records open for the inspection of the public after 50 years, in accordance with § 3110 of Title 16, and shall be admitted as evidence of the facts therein contained in any court of record.

(27 Del. Laws, c. 261, § 5; Code 1915, § 2996; 32 Del. Laws, c. 182, § 1; 38 Del. Laws, c. 161, § 1; Code 1935, § 3489; 13 Del. C. 1953, § 119; 54 Del. Laws, c. 126, § 12; 70 Del. Laws, c. 149, § 15; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 74, § 1.)

§ 120. Marriage license application; appearance of parties; exception.

Before any marriage license shall be issued by the issuing officer, the parties desiring to marry shall together appear before such officer to be examined upon oath or affirmation in the presence and hearing of each other according to the form prescribed in § 122 of this title to which the parties applying for the license shall subscribe their names. The license shall be issued only after it has been made to appear that no legal impediment to the proposed marriage exists. In the case of critical illness of 1 of the parties desiring to marry, the physician attending such party may appear for the ill party and make an application for a marriage license for such party, if such physician first makes an affidavit and delivers it to the issuing officer stating that in the opinion of said physician the party for whom said physician is acting is at the point of death and that this person may lawfully marry. The application for the marriage license shall be altered in such case to show that said physician acted as proxy and the affidavit of the physician shall be filed with the application.

(27 Del. Laws, c. 84, § 15; 27 Del. Laws, c. 261, § 6; Code 1915, § 2997; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 2; Code 1935, § 3490; 13 Del. C. 1953, § 120; 54 Del. Laws, c. 126, § 13; 70 Del. Laws, c. 186, § 1.)

§ 121. Identification of applicants not known to issuing officer as residents of State.

In the case of applicants for a marriage license who claim to be residents of the State, if neither of them is personally known to the marriage license issuing officer as a resident of the State, at least 1 of such applicants must be identified as a resident of the State to the satisfaction of the issuing officer by a reputable guarantor, who under oath shall fill in the proper portion on the page in the Marriage Record Books and shall duly sign it.

(27 Del. Laws, c. 84, § 15; 27 Del. Laws, c. 261, § 6; Code 1915, § 2997; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 2; Code 1935, § 3490; 13 Del. C. 1953, § 121; 63 Del. Laws, c. 21, § 4; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 48, § 1.)

§ 122. Marriage license application.

(a) The marriage license application shall be in the form prescribed and provided by the Department of Health and Social Services and shall be permanently preserved by the issuing officer in the manner as prescribed by the Department of Health and Social Services. The marriage license application shall include the following information and such other information as prescribed by the Department of Health and Social Services: date of application, full name, sex, Social Security number, birth date and occupation of applicants, names and addresses of parents of applicants, date and place of previous marriages, civil unions, domestic partnerships or other substantially similar legal unions, and termination of previous marriages, civil unions, domestic partnerships or other substantially similar legal unions, and time of application.

(b) The application shall contain a certification by each applicant that each applicant is not of a prohibited degree of relationship.

(c) The applicants and issuing officer shall sign the application and the issuing officer shall certify as follows:

"I believe neither party is now under the influence of intoxicating liquor nor a narcotic drug. I have demanded and examined such papers as are required by law and I am satisfied that they are properly executed. I know of no legal impediment to the proposed marriage of the above applicants."

The application shall also contain an appropriate affidavit form to be signed by persons certifying that an applicant is a resident of the State, if such certification is required.

(27 Del. Laws, c. 84, § 15; 27 Del. Laws, c. 261, § 6; Code 1915, § 2997; 32 Del. Laws, c. 182, § 1; 34 Del. Laws, c. 195, § 2; Code 1935, § 3490; 13 Del. C. 1953, § 122; 54 Del. Laws, c. 126, § 14; 70 Del. Laws, c. 149, § 16; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 216, § 58; 76 Del. Laws, c. 48, § 3; 79 Del. Laws, c. 19, § 3; 82 Del. Laws, c. 288, § 1; 85 Del. Laws, c. 67, § 10.)

§ 123. Marriage of minors; consent forms.

(a) No individual under the age of 18 shall be granted a marriage license.

(b)-(f) [Repealed.]

(27 Del. Laws, c. 261, § 7; Code 1915, § 2998; 32 Del. Laws, c. 182, § 1; Code 1935, § 3491; 45 Del. Laws, c. 241, § 28; 13 Del. C. 1953, § 123; 54 Del. Laws, c. 126, § 15; 55 Del. Laws, c. 102; 57 Del. Laws, c. 134, §§ 1, 2; 58 Del. Laws, c. 511, §§ 20, 21; 61 Del. Laws, c. 114, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 35, §§ 2-6; 81 Del. Laws, c. 235, § 2.)

§ 124. Administration of oaths.

Every person authorized by this chapter to issue licenses may administer oaths or affirmations to the parties applying for the license.

(27 Del. Laws, c. 261, § 8; Code 1915, § 2999; 32 Del. Laws, c. 182, § 1; Code 1935, § 3492; 13 Del. C. 1953, § 124.)

§ 125. Validity of marriages performed prior to March 20, 1913.

All marriages performed prior to March 20, 1913, by a minister of any religion, even though not a stated and ordained minister of the gospel, if otherwise valid, shall be as valid as if the same had been performed by a stated and ordained minister of the gospel.

(27 Del. Laws, c. 261, § 10; Code 1915, § 3001; Code 1935, § 3494; 13 Del. C. 1953, § 125.)

§ 126. Validity of common-law or other lawful marriages.

Nothing in this chapter shall be construed to render any common-law or other marriage, otherwise lawful, invalid by reason of the failure to take out a license as provided by this chapter.

(27 Del. Laws, c. 261, § 9; Code 1915, § 3000; 32 Del. Laws, c. 182, § 1; Code 1935, § 3493; 13 Del. C. 1953, § 126.)

§ 127. False statement; penalty.

If any person applying for a license under this chapter knowingly makes false answers to any of the inquiries of the person issuing the license, after having been sworn or affirmed to answer truly, said person shall be guilty of perjury, and if any person executing papers under this chapter executes them falsely, said person shall be subject to such penalties as the court may impose.

(27 Del. Laws, c. 261, § 8; Code 1915, § 2999; 32 Del. Laws, c. 182, § 1; Code 1935, § 3492; 13 Del. C. 1953, § 127; 70 Del. Laws, c. 186, § 1.)

§ 128. Performance of marriage ceremony in violation of chapter; false certificate of marriage; penalties.

Any person or religious society having authority to solemnize marriages who performs a marriage ceremony without the presentation of a license issued pursuant to this chapter, or who performs the same prior to the expiration of 24 hours from the time of the issuance of the license or more than 30 days after the time of the issuance of the license, shall be imprisoned not more than 6 months or fined not more than $500, or both. Any person or religious society having authority to solemnize marriages who shall make any false certificate of marriage shall be fined $100.

(27 Del. Laws, c. 261, § 9; Code 1915, § 3000; 32 Del. Laws, c. 182, § 1; Code 1935, § 3493; 13 Del. C. 1953, § 128; 54 Del. Laws, c. 126, § 16; 76 Del. Laws, c. 63, § 2.)

§ 129. Equal treatment of marital relationships [Effective until Dec. 6, 2026].

(a) All laws of this State applicable to marriage or married spouses or the children of married spouses, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, shall apply equally to same-gender and different-gender married couples and their children.

(b) Parties to a marriage shall be included in any definition or use of terms such as “dependent,” “family,” “husband,” “wife,” “widow,” “widower,” “immediate family,” “next of kin,” “spouse,” “stepparent,” “tenants by the entirety” and other terms, whether or not gender specific, that denote a spousal or familial relationship, or a person in a spousal or familial relationship, as those terms are used throughout the Code, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of the laws of this State, including in equity, regardless of whether the parties to a marriage are the same gender or different genders.

(c) To the extent that provisions of the laws of this State, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, adopt, refer to, or rely upon in any manner, provisions of United States federal law that would have the effect of treating differently same-gender married spouses or their children as compared to different-gender married spouses or their children, same-gender married spouses and their children shall be treated in all respects by the laws of this State as if United States federal law recognizes a marriage between persons of the same gender in the same manner as the laws of this State.

(d) The rights of same-gender married spouses, with respect to a child of whom either spouse becomes the parent during their marriage, shall be the same as the rights (including presumptions of parentage, paternity and maternity in Chapter 8 of this title) of different-gender married spouses with respect to a child of whom either spouse becomes the parent during their marriage.

(e) Notwithstanding anything to the contrary contained in, and in addition to any other rights afforded under, Chapter 31 of Title 16, if a married person is the legal parent of a child at the birth of the child, including pursuant to subsection (d) of this section, such person shall be entitled to have such person’s name entered on the original certificate of birth as a parent of the child.

(f) All persons who enter into same-gender marriages that are solemnized in this State or are created by conversion from a civil union under the laws of this State consent to the nonexclusive jurisdiction of the Family Court of this State for all proceedings for divorce and annulment of such marriage, even if 1 or both parties no longer reside in this State, as set forth in § 1504 of this title.

(79 Del. Laws, c. 19, § 4; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 129. Equal treatment of marital relationships [Effective Dec. 6, 2026].

(a) All laws of this State applicable to marriage or married spouses or the children of married spouses, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, shall apply equally to same-gender and different-gender married couples and their children.

(b) Parties to a marriage shall be included in any definition or use of terms such as “dependent,” “family,” “husband,” “wife,” “widow,” “widower,” “immediate family,” “next of kin,” “spouse,” “stepparent,” “tenants by the entirety” and other terms, whether or not gender specific, that denote a spousal or familial relationship, or a person in a spousal or familial relationship, as those terms are used throughout the Code, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of the laws of this State, including in equity, regardless of whether the parties to a marriage are the same gender or different genders.

(c) To the extent that provisions of the laws of this State, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, adopt, refer to, or rely upon in any manner, provisions of United States federal law that would have the effect of treating differently same-gender married spouses or their children as compared to different-gender married spouses or their children, same-gender married spouses and their children shall be treated in all respects by the laws of this State as if United States federal law recognizes a marriage between persons of the same gender in the same manner as the laws of this State.

(d) The rights of same-gender married spouses, with respect to a child of whom either spouse becomes the parent during their marriage, shall be the same as the rights (including the presumption of parentage under Chapter 8 of this title) of different-gender married spouses with respect to a child of whom either spouse becomes the parent during their marriage.

(e) Notwithstanding anything to the contrary contained in, and in addition to any other rights afforded under, Chapter 31 of Title 16, if a married person is the legal parent of a child at the birth of the child, including pursuant to subsection (d) of this section, such person shall be entitled to have such person’s name entered on the original certificate of birth as a parent of the child.

(f) All persons who enter into same-gender marriages that are solemnized in this State or are created by conversion from a civil union under the laws of this State consent to the nonexclusive jurisdiction of the Family Court of this State for all proceedings for divorce and annulment of such marriage, even if 1 or both parties no longer reside in this State, as set forth in § 1504 of this title.

(79 Del. Laws, c. 19, § 4; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 99.)

Subchapter II

Premarital Physical Examination

§§ 141-151. Physician’s certificate of premarital physical examination and serological test; filing; consent to examinations and tests; free examination; laboratory test and report; serological test; approved laboratory; duty of State Board of Health; laboratory report form; distribution and inspection; examinations and tests outside State; military personnel; waiver of examination and test; proceedings; certificates, laboratory reports, applications and court orders should be confidential; penalty; misrepresentations and other offenses; penalty; construction of subchapter; conflict with other laws.

Repealed by 63 Del. Laws, c. 457, § 1, effective July 23, 1982.

Chapter 2
Civil Unions

§ 201. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Civil union” means a legal union between 2 individuals of the same sex established pursuant to this chapter.

(2) “Party” or “party to a civil union” means an individual who is a party to a civil union established pursuant to this chapter.

(78 Del. Laws, c. 22, § 1.)

§ 202. Eligibility to enter into a civil union.

Persons shall be eligible to enter into a civil union only if such persons both are:

(1) Not:

a. A party to a civil union with a different person;

b. A spouse in a marriage that is recognized as a marriage under Chapter 1 of this title; or

c. A party to a substantially similar legal relationship as a civil union such as, but not limited to, a domestic partnership, with a different person;

(2) At least 18 years of age;

(3) Of the same sex; and

(4) Not related to the other proposed party to the civil union, as provided in § 203 of this title.

(78 Del. Laws, c. 22, § 1.)

§ 203. Civil unions void; when.

(a) A civil union is prohibited and void between a person and that person’s ancestor, descendant, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew or first cousin.

(b) A civil union is prohibited, and is void from the time its nullity is declared by a Court of competent jurisdiction at the instance of the innocent party, if either party thereto is:

(1) Divorced, unless a certified copy of the divorce decree (last decree if such person has been divorced more than once) or a certificate of such divorce from the clerk of the Court granting the divorce is inspected by the clerk of the peace to whom such person makes application for a civil union license, and unless such person may in other respects lawfully enter into a civil union; and, if such decree or certificate cannot be obtained, the resident judge of the county where such license is desired or the person designated by the resident judge to grant such certificates as may be accepted under this paragraph (b)(1) may grant a certificate of the facts as stated by the applicant and the certificate may, for the purposes of this chapter, be accepted in lieu of a certified copy of a divorce decree; or

(2) On probation or parole from any Court or institution, unless such person first files with the clerk of the peace to whom such person makes application for a civil union license a written consent to such person’s proposed civil union from the chief officer of such Court or institution or from someone who is appointed by such officer to give such consent, and unless in other respects the applicant may lawfully enter into a civil union.

(c) A civil union obtained or recognized outside the State between persons prohibited by subsection (a) of this section shall not constitute a legal or valid civil union within this State.

(d) The guilty party or parties to a civil union prohibited by this section shall be fined $100, and in default of the payment of the fine shall be imprisoned not more than 30 days. The Superior Court shall have exclusive original jurisdiction over all proceedings for violations of this section.

(78 Del. Laws, c. 22, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 204. Status of children of civil unions.

The rights of parties to a civil union, with respect to a child of whom either party becomes the parent during the term of the civil union, shall be the same as the rights (including presumptions of parentage) of married spouses with respect to a child of whom either spouse becomes the parent during the marriage. Children of void or voidable civil unions shall be deemed to be legitimate. Notwithstanding anything to the contrary contained in, and in addition to any other rights afforded under, Chapter 31 of Title 16, if a party to a civil union is the legal parent of a child at the birth of the child, such party shall be entitled to have the party’s own name entered on the original certificate of birth as a parent of the child.

(78 Del. Laws, c. 22, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 205. Solemnization; license to perform; refusal to join persons in a civil union.

(a) A civil union entered into in this State shall become valid only upon completion of a solemnization in accordance with this section.

(b) A clergyperson or minister of any religion, current and former Judges of this State’s Supreme Court, Superior Court, Family Court, Court of Chancery, Court of Common Pleas, Justice of the Peace Court, federal Judges, federal Magistrates, clerks of the peace of various counties and current and former judges from other jurisdictions with written authorization by the clerk of the peace from the county in

Delaware where the civil union ceremony is to be performed may solemnize a civil union between persons who may lawfully enter into a civil union. The clerk of the peace in each county for good cause being shown may:

(1) Allow by written permit within the clerk of the peace's respective county, any duly sworn member of another state's judiciary, to solemnize civil unions in the State between persons who may lawfully enter into a civil union.

(2) Allow by written permit within the clerk of the peace's respective county, the clerk of the peace from another county within the State to solemnize civil unions in the State between persons who may lawfully enter into a civil union.

Within the limits of any incorporated municipality, the mayor thereof may solemnize civil unions between persons who may lawfully enter into a civil union. Civil unions shall be solemnized in the presence of at least 2 reputable witnesses who shall sign the certificate of civil union as prescribed by this chapter. Solemnization may be entirely secular or may be performed according to the forms and usages of any religious society. No civil union shall be solemnized without the production of a license issued pursuant to this chapter.

(c) Other than as provided in this subsection, nothing in this section shall be construed to require any person authorized to perform solemnizations of marriages or civil unions to perform a solemnization of a civil union, and no such authorized person who fails or refuses for any reason to join persons in a civil union shall be subject to any fine or other penalty for such failure or refusal. Notwithstanding the preceding sentence, a clerk of the peace or deputy thereof who issues a civil union license shall be required to perform a solemnization of such civil union if requested by the applicants for such license, and such solemnization shall be afforded the same order of priority as solemnization of marriages pursuant to Chapter 1 of this title. Clerks of the peace shall act pursuant to this chapter in the same manner as they act pursuant to Chapter 1 of this title, without discrimination as to whether the issue involves a marriage under Chapter 1 of this title or a civil union under this chapter.

(d) In the case of the absence or disability of the duly elected clerk of the peace, the chief deputy or, if there is no chief deputy, a deputy employed in the office of the clerk of the peace, shall be authorized to solemnize civil unions.

(e) Whoever, being authorized to issue a civil union license, knowingly or wilfully issues a license for a civil union prohibited by this chapter or, being authorized to solemnize a civil union, knowingly or wilfully assists in the contracting or solemnization of a prohibited civil union, shall be fined $100, and in default of the payment of such fine shall be imprisoned not more than 30 days.

(f) Whoever, not being authorized by this section, solemnizes a civil union, shall be fined $100, and in default of the payment of such fine shall be imprisoned not more than 30 days, and such civil union shall be void, unless it is in other respects lawful and is consummated with the full belief of either of the parties in its validity.

(g) Notwithstanding anything to the contrary contained in § 213 of this title [repealed], if a civil union prohibited by this chapter is contracted or solemnized outside of the State, when the legal residence of either party to the civil union is in this State, and the parties thereto shall afterwards live and cohabitate as parties to a civil union within the State, they shall be punished in the same manner as though the civil union had been contracted in this State.

(h) The Superior Court shall have exclusive original jurisdiction over all proceedings for violations of this section.

(78 Del. Laws, c. 22, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 19, § 5; 84 Del. Laws, c. 42, § 1.)

§ 206. Applicants for civil union; license required; limitations; violations by clerk of the peace; penalties.

(a) No persons may be joined in a civil union in this State unless both parties to such civil union:

(1) Meet the requirements of § 202 of this title;

(2) Have complied with § 207 of this title; and

(3) Have been issued a license by a clerk of the peace at least 24 hours prior to the time of the ceremony.

(b) The Department of Health and Social Services shall prescribe a civil union license form.

(c) The several clerks of the peace of the various counties or their deputies, shall issue all civil union licenses and shall sign them and affix the county seal thereto. A civil union license, when issued by the clerk of the peace, is sufficient authority for any person authorized to perform a civil union solemnization in this State to join the parties in a civil union. A civil union license issued pursuant to this chapter shall entitle the parties thereto, subject to the other provisions of this chapter, to enter into a civil union within 30 days from the date of issuance. In the event the civil union is not solemnized within 30 days of the issuance of said license, said license shall be void and the parties must reapply to the appropriate issuing officer for another license to enter into a civil union. The procedure to secure another license shall be the same as that provided for the initial application.

(d) The clerk of the peace in each county for good cause being shown may:

(1) Shorten the time period specified in paragraph (a)(3) of this section; or

(2) Lengthen the time period specified in subsection (c) of this section not to exceed 180 days.

(e) No civil union license shall be issued by a clerk of the peace when either of the parties applying for a civil union license, at the time of making the application, is under the influence of intoxicating liquor or a narcotic drug or if papers that are required by this chapter are not delivered or if the issuing officer believes there is any legal impediment, as defined in this chapter, to the civil union of such parties.

(f) The number on the civil union license shall be filled in by the issuing clerk of the peace, unless it has been previously affixed and shall be the same number as that appearing on the application for such license. All blanks provided on the civil union license shall be filled in by the issuing clerk of the peace. The issuing clerk of the peace shall immediately note the issuance of a civil union license in the appropriate books prescribed by the Department of Health and Social Services.

(g) Any clerk of the peace or deputy of such who knowingly or wilfully acts in violation of this chapter shall be fined $100, and in default of payment of such fine, shall be imprisoned not more than 30 days. The Superior Court shall have exclusive original jurisdiction over all proceedings for violations of this section.

(78 Del. Laws, c. 22, § 1.)

§ 207. Application for license for persons who wish to enter into a civil union.

(a) Before any civil union license shall be issued by the issuing officer, the parties desiring to enter into a civil union shall together appear before such officer to be examined upon oath or affirmation in the presence and hearing of each other according to the form prescribed by subsections (b), (c) and (d) of this section to which the parties applying for the license shall subscribe their names. The license shall be issued only after it has been made to appear that no legal impediment to the proposed civil union exists. In the case of critical illness of 1 of the parties desiring to enter into a civil union, the physician attending such party may appear for the ill party and make an application for a civil union license for such party, if such physician first makes an affidavit and delivers it to the issuing officer stating that in the opinion of said physician the party for whom said physician is acting is at the point of death and that this person may lawfully enter into a civil union. The application for the civil union license shall be altered in such case to show that said physician acted as proxy and the affidavit of the physician shall be filed with the application.

(b) The civil union license application shall be in the form prescribed and provided by the Department of Health and Social Services and shall be permanently preserved by the issuing officer in the manner as prescribed by the Department of Health and Social Services. The civil union license application shall include the following information and such other information as prescribed by the Department of Health and Social Services; provided that such other information is also required for marriage license applications under Chapter 1 of this title: date of application; full name, sex, race, Social Security number, birth date and occupation of applicants; names and addresses of parents of applicants; date and place of previous civil unions, domestic partnerships or marriages and termination of previous civil unions, domestic partnerships or marriages; place and court where applicants are on probation or parole, if such they be; and time of application.

(c) The application shall contain a certification by each applicant that each applicant is not of a prohibited degree of relationship.

(d) The applicants and issuing officer shall sign the application and the issuing officer shall certify as follows:

"I believe neither party is now under the influence of intoxicating liquor nor a narcotic drug. I have demanded and examined such papers as required by law and I am satisfied that they are properly executed. I know of no legal impediment to the proposed civil union of the above applicants."

The application shall also contain an appropriate affidavit form to be signed by persons certifying that an applicant is a resident of the State, if such a certification is required.

(e) In the case of applicants for a civil union license who claim to be residents of this State, if neither of them is personally known to the civil union license issuing officer as a resident of this State, at least 1 of such applicants must be identified as a resident of this State to the satisfaction of the issuing officer by a reputable guarantor, who under oath shall fill in the proper portion on the page in the Civil Union Record Books and shall duly sign it.

(f) Every person authorized by this chapter to issue civil union licenses may administer oaths or affirmations to the parties applying for the license.

(g) Civil union licenses, and other forms and books used in connection with the issuance of civil union licenses shall be furnished by the Department of Health and Social Services on request of the clerks of the peace. Each page of the Civil Union Record Books for the use of the clerks of the peace shall be numbered serially before delivery to the clerks of the peace.

(h) Clerks of the peace shall examine and satisfy themselves of the validity of papers submitted to them by divorced persons, past or present patients of insane asylums, persons on probation or parole and shall file such papers in the office of the recorder of the appropriate county. Such papers shall constitute a part of the application for civil union license, but shall be open to inspection of the public only upon order of the resident judge of the proper county or such person as the judge may appoint to give such orders.

(i) Judges shall supply certificates in whatever form they see fit to such divorced persons as they believe should receive them under this chapter.

(j) Superintendents of asylums for the insane shall supply certificates in whatever form they see fit to such persons as they believe should receive them under this chapter.

(k) In the case of any adult person who is on probation or parole from any court or institution, the chief officer of such court or institution, or such person as such officer may appoint to give consent to enter into a civil union, shall supply such consent in whatever form such officer deems advisable to such applicants for civil union license as such officer believes may properly enter into a civil union.

(78 Del. Laws, c. 22, § 1.)

§ 208. Forms for civil union license; certification of civil union.

(a) The Department of Health and Social Services shall prescribe a civil union license form which shall be issued by the several clerks of the peace and such other forms, books, dockets and records as may be necessary to properly record civil unions and the issuance of civil union licenses. The civil union license shall contain language authorizing any clergy or other person authorized by the law of this State to solemnize a civil union and shall show: The earliest and latest time the solemnization of the civil union may be performed

pursuant to the license, the place of issuance of the license, the names of the parties, the signature of the issuing authority and such other wording as the Department of Health and Social Services may prescribe, but not to exceed information collected for a marriage license under Chapter 1 of this title except as required to confirm eligibility under § 202 of this title. The license shall also contain a form of certification by the person performing the solemnization ceremony that the solemnization ceremony was performed and the date and time of such solemnization ceremony.

(b) The Department of Health and Social Services shall furnish to all persons authorized by law to solemnize civil unions a suitable form for evidencing a civil union and the date and the place thereof, which form shall be completed and delivered without charge to one party to the civil union by the person performing the solemnization ceremony immediately after the solemnization ceremony. Such form may, but need not be, the original or a copy of the civil union license.

(78 Del. Laws, c. 22, § 1.)

§ 209. Record of solemnization; reported by whom; affidavit; evidentiary weight of certificate or affidavit; supplies of civil union licenses, books, and other forms.

(a) The person who solemnizes a civil union shall, within 15 days after the solemnization of the civil union, return to the issuing clerk of the peace such forms and papers as the Department of Health and Social Services may prescribe. The clerk of the peace shall immediately enter in the books prescribed by the Department of Health and Social Services to record civil unions the date of the civil union solemnization and the name of the person performing the civil union solemnization.

(b) If any person who has solemnized a civil union fails to return the certificate of civil union to the issuing clerk of the peace for recording as required under subsection (a) of this section within 15 days of the solemnization of the civil union, the parties joined in the civil union may provide the clerk of the peace with a notarized affidavit attesting to the fact that they were joined in a civil union and stating the date and place of the solemnization of the civil union and the name of the person performing such solemnization. Upon the recording of that affidavit by the clerk of the peace, the civil union of the parties shall be deemed to be valid as of the date of the solemnization of the civil union stated in the affidavit.

(c) The certificate required by subsection (a) of this section or an affidavit recorded pursuant to subsection (b) of this section shall be prima facie evidence of the facts stated therein.

(d) Any person solemnizing a civil union in this State who fails to return the certificate of civil union to the issuing clerk of the peace for recording within 15 days of the solemnization of the civil union shall be assessed a $50 late fee by the issuing clerk of the peace. Any person with an unpaid civil penalty assessed by a clerk of the peace shall have that person’s authorization to solemnize civil unions in the State suspended until such penalty is paid in full.

(e) The person performing the civil union ceremony shall retain the original or a copy of the civil union license, as the Department of Health and Social Services shall direct, for not less than 1 year after the ceremony.

(f) The books, forms and records as may be prescribed by the Department of Health and Social Services for civil unions shall be kept by the issuing clerk of the peace in the issuing clerk of the peace’s office. They shall be public records open for the inspection of the public after 50 years, in accordance with § 3110 of Title 16, and shall be admitted as evidence of the facts therein contained in any court of record.

(78 Del. Laws, c. 22, § 1; 82 Del. Laws, c. 74, § 2.)

§ 210. False statement; penalty.

If any person applying for a civil union license under this chapter knowingly makes false answers to any of the inquiries of the person issuing the license, after having been sworn or affirmed to answer truly, said person shall be guilty of perjury, and if any person executing papers under this chapter executes them falsely, said person shall be subject to such penalties as the Court may impose. The Superior Court shall have exclusive original jurisdiction over all proceedings for violations of this section.

(78 Del. Laws, c. 22, § 1.)

§ 211. Performance of civil union solemnization in violation of chapter; false certificate of civil union; penalties.

Any person or religious society having authority to solemnize civil unions who performs a civil union solemnization without the presentation of a license issued pursuant to this chapter, or who performs the same prior to the expiration of 24 hours from the time of the issuance of the license or more than 30 days after the time of the issuance of the license, shall be imprisoned not more than 6 months or fined not more than $500, or both. Any person or religious society having authority to solemnize civil unions who shall make any false certificate of civil union shall be fined $100. The Superior Court shall have exclusive original jurisdiction over all proceedings for violations of this section.

(78 Del. Laws, c. 22, § 1.)

§ 212. Rights, benefits, protections and responsibilities of parties to a civil union.

(a) Parties to a civil union lawfully entered into or otherwise recognized pursuant to this chapter shall have all the same rights, protections and benefits, and shall be subject to the same responsibilities, obligations and duties under the laws of this State, whether derived from

statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, as are granted to, enjoyed by or imposed upon married spouses.

(b) Former parties to a civil union lawfully entered into or otherwise recognized pursuant to this chapter shall have the same rights, protections and benefits, and shall be subject to the same responsibilities, obligations and duties under the laws of this State, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, as are granted to, enjoyed by or imposed upon former married spouses.

(c) A surviving party to a civil union lawfully entered into or otherwise recognized pursuant to this chapter, following the death of the other party to the civil union, shall have the same rights, protections and benefits, and shall be subject to the same responsibilities, obligations and duties under the laws of this State, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, as are granted to, enjoyed by or imposed upon a widow or widower.

(d) To the extent that provisions of the laws of this State, whether derived from statutes, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity, adopt, refer to, or rely upon in any manner, provisions of United States federal law that would have the effect of parties to a civil union being treated differently than married spouses, parties to a civil union shall be treated in all respects by the laws of this State as if United States federal law recognizes a civil union in the same manner as the laws of this State.

(78 Del. Laws, c. 22, § 1; 70 Del. Laws, c. 186, § 1.)

§ 213. Legal unions performed in other jurisdictions [Repealed].

(78 Del. Laws, c. 22, § 1; repealed by 79 Del. Laws, c. 19, § 5, eff. July 1, 2013.)

§ 214. Treatment of parties to a civil union for purposes of Delaware law.

(a) A party to a civil union shall be included in any definition or use of the terms “dependent”, “family”, “husband and wife”, “immediate family”, “next of kin”, “spouse”, “stepparent”, “tenants by the entirety”, and other terms, whether or not gender-specific, that denote a spousal relationship or a person in a spousal relationship, as those terms are used throughout the Code, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of the laws of this State, including in equity.

(b) To the extent that another provision of this Code (other than Chapter 1 of this title) or other laws of this State (including, without limitation, administrative rules or regulations, court rules, governmental policies, common law, court decisions, or any other provisions or sources of law, including in equity) utilizes a term used in Chapter 1 of this title relating to marriage, references a section of Chapter 1 of this title, or references marital status, except to the extent otherwise set forth in this chapter, such term, section or other reference shall be deemed to also utilize, include or reference the applicable corresponding term, section or other reference relating to civil unions or civil union status as established in this chapter.

(78 Del. Laws, c. 22, § 1; 70 Del. Laws, c. 186, § 1.)

§ 215. Treatment of parties to a civil union for purposes of Chapter 1 of this title.

Notwithstanding Chapter 1 of this title, no person who has entered into a valid civil union pursuant to this chapter, or who has entered into a valid legal union in any other jurisdiction that is recognized as a civil union pursuant to this chapter, may be found in violation of any provision of Chapter 1 of this title.

(78 Del. Laws, c. 22, § 1.)

§ 216. Dissolution of a civil union.

A civil union entered into or otherwise recognized under this chapter may be dissolved in the same form and manner as marriages entered into or otherwise recognized under Chapter 1 of this title; provided, however, notwithstanding §§ 1504 and 1505(d) of this title, the Family Court of this State shall have, in addition to any other basis for jurisdiction it would otherwise have, jurisdiction over all proceedings for divorce and annulment of civil unions that are solemnized in this State under this chapter notwithstanding that the domicile or residency of the petitioner and the respondent are not in this State, if the jurisdiction of domicile or residency of the petitioner and/or the respondent does not by law affirmatively permit such a proceeding to be brought in the courts of that jurisdiction. All persons who enter into a civil union solemnized in this State consent to the nonexclusive jurisdiction of the Family Court for all proceedings for divorce and annulment of such civil union, even if 1 or both parties no longer reside in this State. If neither of the parties to a civil union solemnized in this State reside in this State, any petition for divorce or annulment of such civil union shall be filed in the county in which 1 or both of such parties last resided in this State.

(78 Del. Laws, c. 22, § 1.)

§ 217. Rules of construction.

(a) The rule of construction that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter. This chapter shall be broadly construed to accomplish its intended purposes.

(b) The rule of construction that specific statutory provisions should prevail over general statutory provisions shall have no application to this chapter except to the extent that the provisions of this chapter are considered specific as opposed to general provisions.

(78 Del. Laws, c. 22, § 1.)

§ 218. Conversion of civil unions to marriages.

(a) Notwithstanding the provisions of this chapter, no civil union licenses shall be issued, no persons shall be eligible to enter into new civil unions, and no new civil unions shall be solemnized, on or after July 1, 2013.

(b) Notwithstanding any provision of Chapter 1 of this title, on or after July 1, 2013, and prior to July 1, 2014, both parties to a civil union entered into pursuant to this chapter may apply to the clerk of the peace in the county in which their civil union license was issued, for a marriage license, in accordance with procedures established by such clerk of the peace, to have their civil union legally converted to a marriage by operation of law without requirement of solemnization, provided that such civil union has not been previously dissolved or annulled and is not subject to a pending proceeding for dissolution, annulment or legal separation. Upon application for a marriage license in accordance with such procedures, such parties shall be issued a certificate of marriage and the civil union of such parties shall be converted to a marriage by operation of law. For all purposes of the laws of this State, the effective date of such marriage shall be deemed to be the date of solemnization of such original civil union.

Alternatively, on or after July 1, 2013, and prior to July 1, 2014, both parties to a civil union entered into pursuant to this chapter may apply to the clerk of the peace, in the county in which their civil union license was issued, for a marriage license pursuant to Chapter 1 of this title and such parties may have such marriage solemnized, prior to July 1, 2014, pursuant to Chapter 1 of this title, provided that such persons are otherwise eligible to marry under § 101 of this title, such civil union has not been previously dissolved or annulled, and such civil union is not subject to a pending proceeding for dissolution, annulment or legal separation. Upon the solemnization of such marriage, the civil union of such parties shall be converted at such time to a marriage by operation of law. For all purposes of the laws of this State, the effective date of such marriage shall be deemed to be the date of solemnization of such original civil union.

(c) Subject to subsection (d) of this section, on July 1, 2014, 2 persons who are parties to a civil union entered into pursuant to this chapter, which civil union has not been converted to a marriage pursuant to subsection (b) of this section, shall be deemed married under Chapter 1 of this title and such civil union shall be automatically converted to a marriage by operation of law. Upon application by either party to the clerk of the peace of the county in which their civil union license was issued, in accordance with procedures established by such clerk of the peace, such party shall be issued a certificate of marriage, without any requirement for solemnization of such marriage. For all purposes of the laws of this State, the effective date of such marriage shall be deemed to be the date of solemnization of such original civil union.

(d) Notwithstanding subsection (c) of this section, parties to a civil union with respect to which a proceeding for dissolution, annulment or legal separation is pending on July 1, 2014, shall not be deemed to be married on such date and their civil union shall not be converted to a marriage by operation of law pursuant to subsection (c) of this section, and such civil union shall continue to be governed by the provisions of Chapter 2 of this title and the laws relating to civil unions in effect prior to July 1, 2013; provided, however, that if any such proceeding is terminated without resulting in the dissolution or annulment of the civil union and the parties remain in a civil union, such civil union shall be automatically converted to a marriage by operation of law. Upon application by either party to the clerk of the peace of the county in which their civil union license was issued, in accordance with procedures established by such clerk of the peace, such party shall be issued a certificate of marriage, without requirement of solemnization of such marriage. For all purposes of the laws of this State, the effective date of such marriage shall be deemed to be the date of solemnization of such original civil union.

(e) For purposes of determining the legal rights and responsibilities of parties to a civil union entered into in this State that has been converted to a marriage under this chapter, the date of the solemnization of the original civil union shall be the date by which the origination of legal rights and responsibilities are determined.

(79 Del. Laws, c. 19, § 6; 70 Del. Laws, c. 186, § 1.)

Chapter 3
Husband and Wife; Contracts and Property Rights

Subchapter I
Married Women

§ 311. Rights of married women.

The property of a married woman, whether real, personal or mixed, and choses in action which she has acquired in any manner, and all the income, rents and profits thereof, shall be deemed to be her sole and separate property. She may sell, convey, assign, transfer, devise, bequeath, encumber or otherwise dispose of the same and she may contract jointly (including with her husband) or separately, sue and be sued and exercise all other rights and powers, including the power to make a will, which a femme sole may do under the laws of this State. Nothing in this section shall be deemed to affect the right of the husband, if he survives his wife, as tenant by the curtesy in the real estate of his wife. Acknowledgments by married women of all instruments relating to or affecting real estate shall be taken as provided in Title 25.

(Code 1852, § 1469; 12 Del. Laws, c. 572, § 1; 14 Del. Laws, c. 550, §§ 4, 5; 15 Del. Laws, c. 165, § 5; 22 Del. Laws, c. 203, § 1; Code 1915, §§ 3047, 3050, 3052, 3055; 30 Del. Laws, c. 197, § 1; Code 1935, § 3541; 13 Del. C. 1953, § 311; 70 Del. Laws, c. 186, § 1.)

§ 312. Validation of certain acts completed prior to April 21, 1919.

All sales or other disposition of real estate, mortgages, stocks or silver plate made by a married woman prior to April 21, 1919, and all encumbrances upon her real estate created by a married woman prior to that date, and any disposition of the rents, issues and profits thereof, and the interest upon her mortgages or dividends or other income arising from her stocks, made by a married woman prior to that date without her husband's consent, which are otherwise valid and lawful, shall not be invalid and unlawful because of the failure of such married woman to secure her husband's consent in writing thereto.

(12 Del. Laws, c. 572, § 1; Code 1915, § 3055; 30 Del. Laws, c. 197, § 1; Code 1935, § 3542; 13 Del. C. 1953, § 312; 70 Del. Laws, c. 186, § 1.)

§ 313. Married woman as executrix or administratrix; participation and liability of husband.

Any executrix or administratrix, being a married woman, may act in such representative capacity as though she was a femme sole, and the fact of marriage shall not give her husband any right to participate in any manner in the management, direction and settlement of the estate of the deceased, nor shall he be liable for any act or default of hers as such executrix or administratrix, unless he is a party to her bond as such.

(15 Del. Laws, c. 165, § 2; Code 1915, § 3053; Code 1935, § 3546; 13 Del. C. 1953, § 313; 70 Del. Laws, c. 186, § 1.)

§ 314. Debts of married women; judgment.

All debts contracted before marriage by the wife, or by her authority after marriage, shall be a charge on her real and personal property and a judgment therefor may be recovered against her in her name.

(14 Del. Laws, c. 550, § 2; Code 1915, § 3060; Code 1935, § 3547; 13 Del. C. 1953, § 314; 70 Del. Laws, c. 186, § 1.)

Subchapter II
Premarital Agreements

§ 321. Definitions.

As used in this subchapter:

(1) "Premarital agreement" shall mean an agreement between prospective spouses made in contemplation of marriage, and which is effective upon marriage.

(2) "Property" shall mean an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

(70 Del. Laws, c. 462, § 2.)

§ 322. Formalities.

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

(70 Del. Laws, c. 462, § 2.)

§ 323. Content.

(a) Parties to a premarital agreement may contract with respect to:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(4) The modification or elimination of spousal support or alimony;

(5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) The ownership rights in and disposition of the death benefit from a life insurance policy;

(7) The choice of law governing the construction of the agreement; and

(8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

(70 Del. Laws, c. 462, § 2.)

§ 324. Effect of marriage.

A premarital agreement becomes effective upon marriage.

(70 Del. Laws, c. 462, § 2.)

§ 325. Amendment or revocation.

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. Such amended agreement or revocation is enforceable without consideration.

(70 Del. Laws, c. 462, § 2.)

§ 326. Enforcement.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) Such party did not execute the agreement voluntarily; or

(2) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

a. Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

b. Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

c. Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) Any issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

(70 Del. Laws, c. 462, § 2.)

§ 327. Enforcement; void marriage.

If a new marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

(70 Del. Laws, c. 462, § 2.)

§ 328. Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the time that the parties to the agreement are married. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

(70 Del. Laws, c. 462, § 2.)

Chapter 4
Interstate Withholding Act

§ 401. Purpose and construction; definitions; remedies additional to existing remedies.

(a) The purpose of this chapter is to enhance the enforcement of support obligations by providing a quick and effective procedure for the withholding of income derived in this jurisdiction to enforce support orders of other jurisdictions and by requiring that income withholding, to enforce the support orders of this jurisdiction, be sought in other jurisdictions. This chapter shall be construed liberally to effect that purpose.

(b) As used in this chapter:

(1) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees and other relief.

(2) "Jurisdiction" means any state, as that term is defined in § 6-102 of this title, or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) "Court" means the Family Court of this State and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this chapter, including the issuance and enforcement of support orders.

(4) "Agency" means the Division of Child Support Services of this State and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this chapter, including the issuance and enforcement of support orders.

(5) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is alleged to be the beneficiary of a support order directed to the parent.

(6) "Obligor" means an individual, or the estate of a decedent:

a. Who owes or is alleged to owe a duty of support;

b. Who is alleged but has not been adjudicated to be a parent of a child; or

c. Who is liable under a support order.

(7) "Obligee" means:

a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

b. A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

c. An individual seeking a judgment determining parentage of the individual's child.

(8) "Income" means income as defined in § 513(b)(5) of this title.

(9) "Obligee-employer" means any payor of income.

(10) "Income derived in this jurisdiction" means any income, the payor of which is subject to the jurisdiction of this State for the purpose of imposing and enforcing income withholding under § 513(b) of this title.

(11) "Medical support" means health care costs incurred for and health insurance coverage that is reasonable in cost for the child of an obligor whose support order requires health insurance coverage. Health insurance is considered reasonable in cost if it is employment-related or other group health insurance regardless of service delivery mechanism.

(c) The remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of another jurisdiction. Relief under this chapter shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

(65 Del. Laws, c. 115, § 1; 69 Del. Laws, c. 445, §§ 1, 2; 71 Del. Laws, c. 216, §§ 13-17; 80 Del. Laws, c. 60, § 10; 80 Del. Laws, c. 234, § 4.)

§ 402. Initiation of income withholding; cooperation with other jurisdictions.

On behalf of any client for whom the Division of Child Support Services is already providing services, or on application of a resident of this State, an obligee or obligor of a support order issued by this State, or an agency to whom the obligee has assigned support rights, the Division shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against such income. The Division shall compile and transmit promptly to the agency of the other jurisdiction all documentation required to enter a support order for this purpose. The Division also shall transmit immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order. If the Division receives notice that the obligor is contesting income withholding in another jurisdiction, it shall immediately notify the individual obligee of the date, time and place of the hearings and of the obligee's right to attend.

(65 Del. Laws, c. 115, § 1; 80 Del. Laws, c. 234, § 5.)

§ 403. Entry of support order of another jurisdiction for income withholding.

(a) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (b) of this section from an agency of another jurisdiction, the Division of Child Support Services shall file these documents with the Clerk of the Family Court in which withholding is being sought. The Clerk of the Court shall accept the documents filed and such acceptance shall constitute entry of the support order under this chapter.

(b) The following documentation is required for the entry of a support order of another jurisdiction:

(1) A certified copy of the support order with all modifications;

(2) A certified copy of an income withholding order, if any, still in effect;

(3) A copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;

(4) A sworn statement of the obligee or certified statement of the agency of the arrearages and the assignment of support rights, if any;

(5) A statement of:

a. The name, address and social security number of the obligor, if known;

b. The name and address of the obligor's employer or of any other source of income of the obligor derived in this State against which income withholding is sought; and

c. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(c) If the documentation received by the Bureau under subsection (a) of this section does not conform to the requirements of subsection (b) of this section, the Bureau shall remedy any defect which it can without the assistance of the requesting agency. If the Bureau is unable to make such corrections, the requesting agency shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The Bureau shall accept the documentation required by subsections (a) and (b) of this section even if it is not in the usual form required by state or local rules, so long as the substantive requirements of these subsections are met.

(d) A support order entered under subsection (a) of this section shall be enforceable by income withholding against income derived in this State in the manner and with the effect as set forth in §§ 404 through 411 of this title and § 513(b) of this title. Entry of the order shall not confer jurisdiction on the courts of this State for any purpose other than income withholding.

(65 Del. Laws, c. 115, § 1; 80 Del. Laws, c. 234, § 6.)

§ 404. Notice of proposed income withholding to obligor.

(a) Upon the commencement of the income withholding, the obligor shall be notified that the withholding has commenced and of the procedures to follow if the obligor desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact. This notice shall be in conformity with that required under § 513(b)(2) of this title; provided, however, that the notice shall also advise the obligor that the income withholding was requested on the basis of a support order of another jurisdiction. The date of serving notice on the obligor shall be the basis for measuring time for the obligor to file an affidavit in opposition to the attachment and for holding a hearing and rendering a decision.

(b) Section 513(b)(3) of this title shall apply if the obligor seeks to contest the proposed income withholding; provided, however, that if a hearing is scheduled the Court shall immediately notify the requesting agency of the date, time and place of the hearing and of the obligee's right to attend the hearing.

(65 Del. Laws, c. 115, § 1; 71 Del. Laws, c. 216, §§ 18, 19.)

§ 405. Income withholding hearing.

(a) At any hearing contesting proposed income withholding based on a support order entered under § 403 of this title, the entered order, accompanying sworn or certified statement, and a certified copy of an income withholding order, if any, still in effect shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

(b) Once a prima facie case has been established, the obligor may raise only those defenses set forth in § 513(b)(3) of this title. The burden shall be on the obligor to establish these defenses.

(c) If the obligor presents evidence which constitutes a full or partial defense, the court shall, on the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party; provided, however, that if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the court shall require income withholding for the payment of current support payments under the support order and of so much of any arrearages as is not in dispute, while continuing the case with respect to those matters still in dispute. The court shall determine those matters still in dispute as soon as possible, and if appropriate shall modify the withholding order to conform to that resolution.

(d) In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another state, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions or by personal appearance before the court by telephone or

photographic means, or by any other device specified in § 6-316(f) of this title. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

(e) A court of this State may request the appropriate court or agency of another state to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state and to forward to the court of this State certified copies of the evidence adduced in compliance with the request.

(f) Upon request of a court or agency of another state, the courts of this State which are competent to hear support matters may order a person in this State to appear at a hearing or disposition before the court to adduce evidence or to produce or give evidence under other procedures available in this State. A certified copy of the evidence adduced, such as a transcript or videotape, shall be forwarded by the Clerk of Court to the requesting court or agency.

(g) A person within this State may voluntarily testify by statement or affidavit in this State for use in a proceeding to obtain income withholding outside this State.

(65 Del. Laws, c. 115, § 1; 71 Del. Laws, c. 216, § 20.)

§ 406. Income withholding order.

If the obligor does not request a hearing in the time provided, or if a hearing is held and it is determined that the obligee has or is entitled to income withholding under the local law of the jurisdiction which issued the support order, the court shall issue an income withholding order under § 513(b) of this title. The court shall notify the requesting agency of the date upon which withholding will begin. In cases brought under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), the Division may order income withholding in accordance with § 513(b)(12) of this title, without the necessity of obtaining an order from the Court or any other administrative tribunal.

(65 Del. Laws, c. 115, § 1; 71 Del. Laws, c. 216, § 21.)

§ 407. Applicable enforcement provisions.

The provisions of § 513(b)(6) through (11) of this title apply to income withholding based on a support order of another jurisdiction entered under this chapter.

(65 Del. Laws, c. 115, § 1.)

§ 408. Distribution of collected support payments.

(a) The income withholding order shall direct payment to be made to the state disbursement unit. The state disbursement unit shall promptly transmit payments received pursuant to an income withholding order based on a support order of another jurisdiction entered under this chapter to the agency or person designated in § 403(b)(5)c. of this title.

(b) A support order entered pursuant to § 403 of this title does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state. Amounts collected by any withholding of income shall be credited against the amounts accruing or accrued for any period under any support orders issued either by this State or by a sister state.

(65 Del. Laws, c. 115, § 1; 71 Del. Laws, c. 216, §§ 22, 23.)

§ 409. Changes in original order or jurisdiction.

(a) The court, upon receiving a certified copy of any amendment or modification to a support order entered pursuant to § 403 of this title, shall amend or modify the income withholding order to conform to the modified support order.

(b) If the Division of Child Support Services determines that the obligor has obtained employment in another state or has a new or additional source of income in another state, it shall notify the agency which requested the income withholding of the changes within 5 working days of receiving that information and shall forward to that agency all information it has or can obtain with respect to the obligor’s new address and the name and address of the obligor’s new employer or other source of income. The Division shall include with the notice a certified copy of the income withholding order in effect in this State.

(65 Del. Laws, c. 115, § 1; 80 Del. Laws, c. 234, § 7.)

§ 410. Voluntary income withholding.

Any person who is the obligor on a support order of another jurisdiction may obtain voluntary income withholding by filing with the court a request for such withholding and a certified copy of the support order of a sister state. The court shall issue an income withholding order under § 513(b) of this title. Payment shall be made to the state disbursement unit.

(65 Del. Laws, c. 115, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 216, § 24.)

§ 411. Choice of law.

(a) The law of this State shall apply in all actions and proceedings concerning the issuance, enforcement and duration of income withholding orders issued by a court of this State, which is based upon a support order of another jurisdiction entered pursuant to § 403 of this title, except as provided in subsections (b), (c) and (d) of this section.

(b) The law of the jurisdiction which issued the support order shall govern the following:

(1) The interpretation of the support order entered under § 403 of this title, including amount, form of payment and the duration of support;

(2) The amount of support arrearages necessary to require the issuance of an income withholding order; and

(3) The definition of what costs, in addition to the periodic support obligation, are included as arrearages which are enforceable by income withholding, including but not limited to interest, attorney's fees, court costs and costs of paternity testing.

(c) The court shall apply the statute of limitations for maintaining an action on arrearages of support payments of either the law of this State or of the state which issued the support order entered under this chapter, whichever is longer.

(d) An employer who receives an income withholding order or notice issued by another state shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(1) The employer's fee for processing the income withholder order;

(2) The maximum amount permitted to be withheld from the obligor's income;

(3) The time periods within which the employer must implement the income withholding order and forward the child support payment;

(4) The priorities for withholding and allocating income for multiple child support obligees; and

(5) Any withholding terms or conditions not specified in the order.

(65 Del. Laws, c. 115, § 1; 71 Del. Laws, c. 216, §§ 25, 26.)

§ 412. Employer liability.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(71 Del. Laws, c. 216, § 27.)

Chapter 5
Desertion and Support
Subchapter I
Duty to Support

§ 501. Duty to support minor child; duty to support child over 18 years of age.

(a) The duty to support a child under the age of 18 years, whether born in or out of wedlock, rests primarily upon the child's parents.

(b) Where the parents are unable to provide a minor child's minimum needs, a stepparent or a person who cohabits in the relationship of husband and wife with the parent of a minor child shall be under a duty to provide those needs. Such duty shall exist only while the child makes residence with such stepparent or person and the marriage or cohabitation continues.

(c) The duty to support a child under 18 years of age, whether born in or out of wedlock, shall rest equally upon both parents.

(d) Both parents have a duty to support their child over 18 years of age if such child is a student in high school and is likely to graduate. This duty ends when the child receives a high school diploma or attains age 19, whichever event first occurs.

(Code 1852, §§ 850-853, 1468, 1472; 26 Del. Laws, c. 137; 27 Del. Laws, c. 262, § 13; Code 1915, §§ 1463, 3033, 3061; 37 Del. Laws, c. 189, § 8; Code 1935, §§ 1634, 3526, 3548; 13 Del. C. 1953, § 501; 50 Del. Laws, c. 207, § 1; 59 Del. Laws, c. 567, § 1; 60 Del. Laws, c. 334, § 1; 70 Del. Laws, c. 186, § 1.)

§ 502. Duty to support spouse.

The duty to support a spouse rests upon the other spouse.

(Code 1852, §§ 850-853, 1468, 1472; 26 Del. Laws, c. 137; 27 Del. Laws, c. 262, § 13; Code 1915, §§ 1463, 3033, 3061; 37 Del. Laws, c. 189, § 8; Code 1935, §§ 1634, 3526, 3548; 13 Del. C. 1953, § 501; 50 Del. Laws, c. 207, § 1; 59 Del. Laws, c. 567, § 1.)

§ 503. Duty to support a person unable to financially support oneself.

(a) Except as expressly provided in §§ 501 and 502 of this title, the duty to support a person unable to financially support oneself rests upon the spouse, parents, or children, in that order, subject to § 504 of this title as to expenses described therein. If the relation prior in order shall not be able, the next in order shall be liable, and several relations of the same order shall, if able, contribute according to their means.

(b) For purposes of this section, "a person unable to financially support oneself" includes an adult child with a disability that is unable to support oneself.

(Code 1852, §§ 850-853, 1468, 1472; 26 Del. Laws, c. 137; 27 Del. Laws, c. 262, § 13; Code 1915, §§ 1463, 3033, 3061; 37 Del. Laws, c. 189, § 8; Code 1935, §§ 1634, 3526, 3548; 13 Del. C. 1953, § 501; 50 Del. Laws, c. 207, § 1; 59 Del. Laws, c. 567, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 545, § 1.)

§ 504. Duty to support woman with child conceived out of wedlock.

The duty to support a woman pregnant with child conceived out of wedlock rests first upon the person by whom she became pregnant. Such support may include her necessary prenatal and postnatal medical, hospital, and lying-in expenses incident to the pregnancy and to the birth of the child, and such other relief as to the court shall seem reasonable.

(Code 1852, §§ 850-853, 1468, 1472; 26 Del. Laws, c. 137; 27 Del. Laws, c. 262, § 13; Code 1915, §§ 1463, 3033, 3061; 37 Del. Laws, c. 189, § 8; Code 1935, §§ 1634, 3526, 3548; 13 Del. C. 1953, § 501; 50 Del. Laws, c. 207, § 1; 59 Del. Laws, c. 567, § 1; 70 Del. Laws, c. 186, § 1.)

§ 505. Priority among dependents.

(a) The duties of support specified in §§ 501 through 504 of this title shall be performed according to the following order of priority:

(1) Duty to support one's own minor child;

(2) Duty to support a spouse;

(3) Duty to support a woman pregnant with child conceived out of wedlock;

(4) Duty to support a stepchild or the child of a person with whom the obligor cohabits in the relationship of husband and wife;

(5) Duty to support a poor person.

(b) Where a support obligor is unable to provide support adequate to the needs of 2 or more dependents of the same order of priority, a support obligor shall apportion the amount available for support as equally as possible between or among said dependents according to their respective needs.

(c) This section shall not repeal the rights of the parties as established by § 1512 of this title.

(59 Del. Laws, c. 567, § 1; 70 Del. Laws, c. 186, § 1.)

§ 506. Failure to support for just cause.

No person shall be required to support another while there is just cause for failing or refusing to do so.

(59 Del. Laws, c. 567, § 1; 70 Del. Laws, c. 186, § 1.)

§ 507. Jurisdiction in Family Court; termination of Chancery Court jurisdiction.

(a) The Family Court of the State shall have exclusive original jurisdiction over all actions arising under this chapter. The Court shall have exclusive jurisdiction over the construction, reformation, enforcement and rescission of agreements made between future spouses,

spouses and former spouses concerning the payment of support or alimony, the payment of child support or medical support, the division and distribution of marital property and marital debts and any other matters incident to a marriage, separation or divorce. The Court shall have jurisdiction to resolve any issues resulting from the construction, reformation, enforcement or rescission of an agreement. In this regard, the Court shall apply the statutory factors set forth in Chapters 5, 6 and 15 of this title. The Court shall have and exercise all other jurisdiction and powers relating to support and separate maintenance actions heretofore possessed by the Chancellor or the Court of Chancery of the State.

(b) The jurisdiction of the Court of Chancery in civil actions for separate maintenance is hereby terminated, except for such actions for separate maintenance as have been commenced in the Court of Chancery prior to the effective date hereof. The Court of Chancery shall retain exclusive jurisdiction over such latter actions.

(27 Del. Laws, c. 262, § 2; Code 1915, § 3035; Code 1935, § 3528; 13 Del. C. 1953, § 503; 57 Del. Laws, c. 250, § 2; 59 Del. Laws, c. 567, § 1; 60 Del. Laws, c. 455, § 1; 67 Del. Laws, c. 446, § 1; 69 Del. Laws, c. 445, § 3.)

§ 508. Jurisdiction in Family Court; enforcement of support orders entered by Superior Court.

The Family Court of this State has the power to enforce any support order entered by the Superior Court pursuant to Chapter 15 of this title and to modify or terminate the support obligation decreed by any such order within the following limitations:

(1) Where a divorce decree has been entered by the Superior Court and, under the terms of such decree, the petitioner therein (respondent herein) has been ordered to make periodic support payments to the respondent therein (petitioner herein), a proceeding may be brought in the Family Court under this section for the enforcement of any such order and for the modification or termination of the support obligation decreed thereby;

(2) Proceedings shall be brought in the county wherein respondent resides or is found or in the county wherein petitioner resides if respondent does not reside or cannot be found in this State;

(3) Proceedings shall be instituted by petition. The petition shall be verified and shall state the name and, so far as is known to the petitioner, the address and circumstances of the respondent, shall identify the divorce decree, shall include as an exhibit thereto a certified copy of such decree and shall state any other pertinent information and the relief prayed for. A minor shall be represented by a guardian ad litem;

(4) The Family Court, after a hearing, may enter 1 or more of the following orders appropriate under the actual circumstances:

a. An order requiring respondent to comply with the support obligation specified in the Superior Court decree;

b. An order requiring respondent to comply with the support order set forth in the Superior Court decree as modified by the Family Court;

c. An order terminating the support obligation set forth in the Superior Court decree;

d. An order dismissing the petition;

e. An order cancelling or reducing support arrearages;

f. An order taxing the costs and reasonable attorneys' fees incurred in these proceedings against respondent or petitioner;

g. An order requiring respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the Family Court may deem proper to assure payment of any amount required to be paid by respondent;

h. An order requiring respondent to make payments at specified intervals to the Family Court and to report personally to the Family Court at such times as may be deemed necessary; or

i. An order punishing respondent, who shall violate any order of the Family Court, to the same extent as is provided for by law for contempt of the Court in any other suit or proceeding cognizable by the Court;

(5) Participation in any proceedings under this section shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.

(60 Del. Laws, c. 335, § 1.)

§ 509. Definitions.

Unless a different meaning is plainly required by the context, words and phrases used in this chapter shall have the same meaning as those defined in § 401(b) of this title. For the purposes of this chapter, the term "business day" means a day on which state offices are open for regular business.

(69 Del. Laws, c. 445, § 4; 71 Del. Laws, c. 216, § 28.)

Subchapter II

Civil Enforcement

§ 511. Commencement of actions; obtaining jurisdiction over respondent.

(a) Proceedings may be instituted in accordance with rules adopted by the Court, or upon a petition in which the petitioner alleges that defendant owes petitioner a duty of support and has refused or failed to provide such support.

(b) Jurisdiction may be acquired over respondent in any of the following ways:

(1) By issuance of summons by the Clerk of the Family Court, and service thereof by the sheriff or other person authorized to make service of process upon respondent, by delivering a copy of the summons, petition and any affidavit to respondent personally or by delivering copies thereof to an agent authorized by appointment or by law to receive service of process.

(2) By appearance of respondent, either personally or by executing and filing an appearance document in a form approved by the Court, with or without issuance of summons.

(3) By appearance of counsel for respondent, with or without issuance of summons.

(4) Under a court rule not inconsistent with this section.

(5) By any form of mail with proof of delivery.

(6) As may be otherwise provided by law.

(59 Del. Laws, c. 567, § 1; 71 Del. Laws, c. 216, §§ 3, 4; 85 Del. Laws, c. 388, § 1.)

§ 512. Interim order.

(a) At any time before trial upon petition of the complainant and upon notice to the defendant, the Court shall conduct a hearing and thereafter may enter such interim order, pending final judgment, as seems just, for the support of any dependent for whom support is sought. The Court may also enter an interim or emergency order for support in accordance with its rules and procedures.

(b) Section 913 of Title 10 notwithstanding, the report and recommendations of the Master with regard to a permanent, temporary, interim or emergency order entered under Chapter 4, 5 or 6 of this title shall become effective and enforceable immediately as an order of the Family Court when announced by the Master. Said order shall remain in full force and effect unless and until a party files a petition for review de novo within 15 days of the date said order is announced and makes application for and is granted a stay by order of a judge of the Family Court.

(27 Del. Laws, c. 262, § 3; Code 1915, § 3036; 35 Del. Laws, c. 189, § 1; Code 1935, § 3529; 13 Del. C. 1953, § 504; 59 Del. Laws, c. 567, § 1; 65 Del. Laws, c. 228, § 3; 67 Del. Laws, c. 158, § 4; 67 Del. Laws, c. 446, § 2.)

§ 513. Judgment; order of support; other terms.

(a) Where the duty of support has been determined to exist, the court may:

(1) Order the defendant to pay a certain sum periodically into the Division of Child Support Services or directly to a resident parent, dependent, dependent's legal guardian, caretaker relative having custody of or responsibility for the child, custodian or trustee, conservator representing the custodial parent and child directly with a legal and fiduciary duty, or alternate caretaker designated in a record by the custodial parent for a dependent's support for so long as the obligation of support shall exist;

(2) Order the defendant to pay a specific total amount into the Division of Child Support Services or directly to a resident parent, dependent, dependent's legal guardian, caretaker relative having custody of or responsibility for the child, custodian or trustee, conservator representing the custodial parent and child directly with a legal and fiduciary duty, or alternate caretaker designated in a record by the custodial parent in a lump sum or in such stated periodic amounts as the court deems proper;

(3) Order the defendant to pay directly to the obligee the cost of prenatal and postnatal medical, hospital, and other lying-in expenses incident to the birth of a child;

(4) Order the defendant to elect health insurance coverage for a child available through the defendant's employment, otherwise available at reasonable cost as defined in § 401(b)(11) of this title or to pay directly the cost of health insurance coverage for a child; provided, however, that any new or modified order entered in any case brought under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.) shall require either or both parents to provide health insurance coverage for the child or children who are the subjects of the child support; and provided, further, that in any case brought under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.) in which a parent is ordered to provide health care coverage for a child through an employment-related group health plan, the Division of Child Support Services shall issue the National Medical Support Notice required by Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.) and federal regulations promulgated pursuant thereto, and the Division shall promptly notify the employer when there is no longer a current order for medical support in effect for which the Division is responsible:

a. In any case in which a parent is required by court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an employer doing business in this State, such employer shall:

1. Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions).

2. If such a parent is enrolled but fails to make application to obtain coverage of such child, enroll such child under such family coverage upon application by the child's other parent, the Division of Child Support Services or Division of Social Services. The court or administrative order providing for enrollment of the child shall constitute the application for enrollment.

3. Not disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that:

A. Such court or administrative order is no longer in effect; or

B. The child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment; or

C. The employer has eliminated family health coverage for all of its employees.

4. Where an obligor has been ordered to provide health insurance coverage for a child in a case enforced pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), receipt by an employer or successive employer of a National Medical Support Notice or other notice from the court or the Division of Child Support Services of an order of a court or administrative agency requiring the obligor to provide health insurance coverage shall operate to enroll the child in the obligor's health insurance plan without regard to any enrollment season restrictions. The obligor may contest the notice by filing a petition in opposition thereto in the Family Court not later than 10 days after issuance of the notice. The petition in opposition may be based only on mistake of fact. Filing of a petition in opposition shall not relieve the employer of any duties under the notice, order or National Medical Support Notice until such time as the employer receives notice that the contest has been resolved. The Court or the Division of Child Support Services shall send a copy of the notice to the obligor at the same time it sends notice to the employer.

b. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this paragraph (a)(4)b. regarding assignment of benefits, this paragraph (a)(4)b. shall not require a health service contractor or a health maintenance organization to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the Division of Child Support Services, or the obligee at the obligee's last known address, within 30 days of the termination date.

c. If an obligor fails to pay the required portion of any deductible under the health insurance coverage or fails to pay the required portion of medical expenses incurred in excess of the coverage provided under the plan, the obligee or the Division of Child Support Services in cases brought under Part D of Title IV of the federal Social Security Act (42 U.S.C. § 651 et seq.) may enforce collection of the obligor's portion of the deductible or the additional medical expenses through an appropriate order under this section, including attachment of the obligor's income. The amount of the deductible or additional medical expenses shall be added to the obligor's child support obligation and be collectible as provided by law if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

d. Receipt of a National Medical Support Notice or an order for the enforcement of a medical support obligation shall require an obligor's employer to:

1. Answer the Division of Child Support Services or the obligee, as directed, within 20 days and confirm that the child:

A. Has been enrolled in a health care plan, or that the employer has transferred a National Medical Support Notice to the appropriate group health plan providing any such coverage for which the child or children are eligible; or

B. Cannot be covered, stating the reasons why such coverage cannot be provided.

2. Transfer a National Medical Support Notice to the appropriate group health plan providing any such health care coverage for which the child or children are eligible within 20 business days of the date of the National Medical Support Notice.

3. Withhold any required premium from the obligor's income or wages, as provided in paragraph (b)(8) of this section.

4. If more than 1 plan is offered by the employer or health insurer, and each plan may be extended to cover the child, enroll the child in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor. When the plan administrator reports that there is more than 1 option available under the plan, the Division of Child Support Services, in consultation with the obligee, must promptly select from available plan options.

5. Provide information to the Division of Child Support Services or the obligee, as directed, about the name of the health care provider or the insurer and the extent of the coverage available and make available to such party any necessary claim forms or enrollment membership cards.

e. Orders entered under this subsection may be enforced as provided in paragraphs (b)(9) and (10) of this section.

(5) Order 1 party to pay all or part of the cost to the other party of maintaining or defending any proceeding under this chapter and for attorneys' fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after the entry of judgment, after considering the legal and factual basis for the action, the results obtained, the financial resources of both parties, and such other factors as the court deems just and equitable. The court may order that the amount be paid directly to the attorney, who may enforce the order in such attorney's own name;

(6) Enforce its order by attachment of the defendant or by sequestration of property;

(7) Enter such other orders as the Court of Chancery heretofore possessed the power to enter, and as the interests of the parties may require, including but not limited to orders of custody and visitation;

(8) Order the defendant to move from the family home, even though titled in defendant's name alone or jointly with someone else, and not to live there for a reasonable period of time so that such defendant's spouse and/or child or children of the marriage might live there and enjoy the family home as an element of support;

(9) Enjoin the defendant from molesting or disturbing the peace of such defendant's spouse and/or child or children of the marriage for whom defendant is obliged to provide support;

(10) Restrain defendant from transferring, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained, requiring such defendant to notify any person to whom such

defendant has an obligation of support, or such person's guardian, custodian or trustee, of any proposed extraordinary expenditure and to account to the court for all extraordinary expenditures made after the order is issued;

(11) Order the defendant to permit such defendant's spouse and/or child or children of the marriage to have the use of designated personal property and/or fixtures, even though titled in defendant's name alone or jointly with someone else, upon such terms and conditions as the court may impose, as an element of support;

(12) When a defendant fails to notify the court within 5 working days after a change of residential address hold the defendant in contempt of court and attach such defendant's wages;

(13) Order either party to designate a minor child or children covered under a support order as a beneficiary on any of the parties' existing life insurance policies for the duration of the support order. The designation may be exclusive or nonexclusive, as determined by the court. The court, in its discretion, may further order the obligor or obligee, whichever is applicable, to designate a trustee, if not the obligor or obligee, for the child or children until such child has reached the age of majority.

(b) (1) Where a duty to support or to provide medical support has been determined to exist and a new or modified support order is established, and regardless of whether support or medical support payments are in arrears, the court shall attach the obligor's income, if any, as of the effective date of the order, for payment of support or premiums for health insurance coverage except that such income shall not be subject to such withholding under this paragraph (b)(1) in any case where:

a. One of the parties demonstrates, and the court (or administrative process) finds that there is good cause not to require immediate income withholding. Any finding that there is good cause not to require immediate income withholding must be based on at least:

1. A written determination that, and explanation by the court or administrative authority of why, implementing immediate income withholding would not be in the best interests of the child; and

2. Proof of timely payment of previously ordered support in cases involving modification of support orders; or

b. A written agreement is reached between both parties which provides for an alternative arrangement. As used herein, "written agreement" means a written alternative arrangement signed by both parents, or by the obligor and a representative of the Division of Child Support Services in cases brought under Part D of Title IV of the federal Social Security Act (42 U.S.C. § 651 et seq.) in which there is an assignment of support rights to the State, and reviewed and entered in the record by the court or administrative authority.

c. [Repealed.]

(2) a. Where no withholding order is in effect for orders of support or medical support entered under this chapter, Chapter 6 of this title, or where the order is one of unallocated alimony and child support under Chapter 15 of this title including orders issued prior to March 5, 1986, or where the ordered payment on arrears is less than 20 percent of current support, the obligor's income shall be attached automatically upon the filing of a written notice sent by the obligee or the Division of Child Support Services of a default in payment for 1 calendar month, or earlier at the request of the obligor.

b. If the existing support order does not include payment on arrears or if the ordered payment on arrears is less than 20 percent of current support, then the income attachment shall be issued in the amount of current support plus an amount payable toward arrears of up to 20 percent of the current support order or $20 per month, whichever is greater. If the existing medical support order does not include an attachment for payment of health insurance coverage, payment for the obligor's share (if any) for premiums of health insurance coverage shall be added to the attachment. The remedy specified for recovery of arrearages shall be in addition to and not in substitution for remedies available elsewhere in this title.

(3) Where an order for attachment is to be issued under this subsection or Chapter 4 of this title, the obligor shall be notified upon the commencement of the withholding that the withholding has commenced and of the procedures to follow if the obligor desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact. The notice shall include the information provided to the obligor's employer pursuant to federal law. The obligor shall have 10 days from the date of notification to file an affidavit in opposition to the attachment based only upon an assertion of a mistake of fact concerning the identity of the parties, the delinquency of payment, or the jurisdiction of the court. Any other defenses to the amount of the obligation may be raised only in accordance with other provisions of this title. Full payment upon receipt of the notification shall not constitute grounds for contesting withholding. The court shall, upon consideration of the affidavit or affidavits, determine whether an issue of material fact or defense permissible under this section exists and shall, in accordance with that determination, schedule a hearing, order the termination of the attachment, or permit the attachment to continue. In either event, a final determination shall be made and both parties notified within 45 days of the notification.

(4) In all cases brought under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), a copy of the Court's income withholding order shall be issued to the Division of Child Support Services and shall be served by the Division by first class mail upon the obligor's employer, and any successive employer, and such service shall be as effectual for all purposes as if served by the court.

(5) For purposes of Chapters 4, 5 and 6 of this title, "income" is defined as:

a. Any periodic form of payment due to an individual, regardless of source, including, but not limited to, wages, salary, commission, vacation pay, severance pay, bonuses, compensation as an independent contractor, workers' compensation, disability, sick pay, SUB benefits, medical benefits, unemployment compensation, railroad retirement, pensions, annuity and retirement benefits; or

b. Any lump sum payment due to an individual from an employer;

c. Provided, however, that income excludes:

1. Any amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal, state and local taxes, Social Security and other mandatory retirement and disability contributions;

2 Union dues;

3 Any amounts exempted by federal law;

4. Public assistance payments; and

5. Tax refunds, which shall be governed by §§ 1205-1209 [repealed] of Title 30 and § 454 of the Social Security Act (42 U.S.C. § 654).

(6) "Employer" has the meaning given such term in § 4301(d) of the Internal Revenue Code of 1986 [repealed], and includes any governmental entity and any labor organization, as defined in § 2(5) of the National Labor Relations Act [29 U.S.C. § 152(5)], and includes an individual, partnership, association, corporation, trust, federal agency, state agency or political subdivision paying or obligated to pay income.

(7) Any attachment or execution to enforce an order for child support, medical support, or unallocated alimony and child support entered under this title shall not be subject to the exemptions or limitations set forth in § 3502 or § 4913 of Title 10 or § 5503 of Title 29. Said attachment for support shall also have priority over any other attachment, except an attachment for federal tax liens, regardless of whether such other attachment was perfected prior to the support attachment. The support and medical support attachment shall be subject to the limitations set forth in § 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)); provided, however, that an attachment of unemployment compensation shall not exceed 50 percent of the weekly payment thereof.

(8) a. Upon receipt of a certified copy of income withholding from the court or copy from the Division of Child Support Services, the employer shall deduct the specified sum, which may include a fee, established by the State, to be paid to the employer, unless waived by the employer, from the income due the obligor-employee and shall, at or before the time the obligor-employee is paid, send payments to the Division of Child Support Services or the obligee, as directed, and pay the health insurance premium amount deducted directly to the health insurer, and shall continue to do so for so long as the obligor remains in the employer's employ or until the court orders otherwise; provided, however, that when an employer receives an income withholding order issued by another state, the employer shall apply the law of the state of the obligor's principal place of employment in determining the factors enumerated in § 411(d) of this title. The withholding shall be effective with regard to any payment by the employer to the obligor after a reasonable time to give effect to the withholding, but in no event shall such withholding be delayed more than 7 days after the first pay-day following receipt of the wage attachment. In every case, the remittance shall be payable as directed and the remittance shall specify the obligor-employee's name and Social Security number. In the event the employer is withholding from more than 1 employee, and the payee is the Division of Child Support Services, payment for the total amount may be remitted by a single payment. Upon the termination of the obligor's employment, the employer shall notify the court, or the Division of Child Support Services if the order of income withholding or National Medical Support Notice was served by the Division, of said termination and shall provide the court, or the Division if the order of income withholding or National Medical Support Notice was served by the Division, with the obligor-employee's last known address, along with the name and address of the obligor's future employer, if known. If the obligor contests such withholding, the employer must initiate withholding until such time as the employer receives notice that the contest is resolved.

b. 1. An employer with 50 or more employees directed to send payments to the Division of Child Support Services must remit payment required under this section by electronic funds transfer and electronic data interchange at or before the time the obligor-employee is paid.

2. An employer with fewer than 50 employees may remit a payment required under this section by electronic funds transfer and electronic data interchange. A payment remitted by the employer electronically must be made at or before the time the obligor-employee is paid.

(9) Upon receipt of the certified copy of the order of income withholding from the court or from the Division of Child Support Services by certified mail, the employer becomes primarily liable for the payment of the obligations for support and medical support set forth in such order, as well as such criminal and civil sanctions as the court may impose in the event that the employer fails to comply with the terms of such income attachment and is found to be in contempt by the court.

(10) Any employer who fails to comply with the terms of this section or who dismisses, terminates or causes the termination of an obligor's employment as a result of an attachment under this section shall be fined for the first offense not more than $1,000 or imprisoned not more than 90 days, or both, and for each subsequent offense shall be fined not more than $5,000 or imprisoned not more than 1 year, or both. Any employer who refuses to hire an obligor as a result of an attachment under this section shall be liable for a civil penalty of not more than $200 for the 1st offense and each subsequent offense. If the employer is a corporation, criminal liability shall be established pursuant to §§ 281-284 of Title 11.

(11) Withholding of income for support or medical support under this section shall remain in effect as long as the order for support or medical support upon which it is based, or any modification thereof.

(12) The Division of Child Support Services is designated as the state income withholding agency. The Division shall distribute all amounts received promptly in accordance with § 457 of the Social Security Act (42 U.S.C. § 657) and shall allocate amounts received when there is more than 1 obligee in accordance with rules promulgated by the federal Department of Health and Human Services.

a. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), and notwithstanding the provisions of the Administrative Procedures Act, Chapter 101 of Title 29, the Division is hereby authorized:

1. To order income withholding in accordance with this chapter, without the necessity of obtaining an order from any other judicial or administrative tribunal, and shall recognize and enforce the authority of state IV-D agencies of other states to do the same.

2. To execute an income withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

b. In cases in which support is subject to an assignment pursuant to Part A of Title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] or to a requirement to pay through the state disbursement unit, upon providing notice to the obligor and obligee, the Division may direct the obligor or other payor to change the payee to the appropriate governmental entity.

(13) Any attachment or execution to enforce an order entered under this chapter or an order for alimony, division of property or other financial relief under Chapter 6, 7, 13 or 15 of this title shall not be subject to the exemptions or limitations set forth in § 3502 or § 4913 of Title 10.

(14) An employer who complies with an income withholding notice or National Medical Support Notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(c) (1) Following the entry of any order of support or medical support under this chapter, the parties must notify each other in writing of every change in circumstances which might materially affect the existing support or medical support order; and, in addition, each party shall exchange completed financial report forms every 12 months to determine how the needs of those receiving support are being met with the support paid, and whether any modification should be made to the existing support order based upon the factors set forth in § 514 of this title.

(2) Where an order for child support, including orders issued prior to March 31, 1987, has been entered under this chapter, Chapter 6 or Chapter 15 of this title, the right of each and every child support installment or payment becomes absolute and vested upon coming due with the full force, effect and attributes of a judgment of the Family Court of the State.

(3) Remedies available under this subsection are cumulative with any and all other remedies available to enforce a child support obligation.

(4) After receipt by the Division of Child Support Services of a copy of an order of child support as set forth in paragraph (c)(1) of this section made payable through the Division, the Division shall promptly record all payments received and apply said payments to installment or payment amounts due and owing by the obligor in accordance with regulations promulgated by the federal Department of Health and Human Services. The Division may establish administrative procedures to make technical corrections in the Division's accounting records. With regard to any order of child support made payable through the Division, the Division's records shall be presumptive of the payment or nonpayment of each installment payment.

(d) (1) The Court shall have continuing jurisdiction to modify prospectively an order of child support entered by the Court including orders issued prior to March 31, 1987, so long as the obligated party has a duty of support under this chapter, Chapter 6 or Chapter 15 of this title and at least 1 of the parties or the child whose support is at issue resides in the State or as provided in § 6-205(a)(2) of this title.

(2) An order of child support entered by this Court or a court of competent jurisdiction in this or any other state, including orders entered prior to March 31, 1987, shall not be retroactively modified except with respect to any period during which there is pending petition for prospective modification but only from the date that notice of such petition has been given to the respondent directly or through the respondent's agent, including the Division of Child Support Services in cases administered under Title IV-D of the Social Security Act [42 U.S.C. § 651 et seq.]. In addition to any other manner or type, "notice" for the purposes of this paragraph (d)(2) shall include but not be limited to regular mail to the most recent address provided to the Court by the respondent or otherwise confirmed by a superior form of service in this or any other action. Said notice shall be effective on the date of delivery, first attempted delivery, or 3 days after posting (if by regular mail), whichever first occurs.

(3) Whenever the Court considers a petition to modify child support, the Court shall also consider whether medical support should be ordered or modified, as provided in this chapter. When the Court considers a petition to establish or modify medical support, such petition shall also put the order for child support at issue, and the Court will determine whether the child support amount should be modified in accordance with the guidelines.

(e) The Court shall have continuing jurisdiction to enforce an order of child support entered by the Court, including orders issued prior to March 31, 1987, so long as the obligated parent has a duty to support the child or children under this chapter, Chapter 6 or Chapter 15 of this title or there are arrearages or past due amounts due and owing on such an order. Nothing in this subsection shall be construed as limiting the Court's authority under Chapter 4 of this title.

(f) Each party to a support order shall report any change in each such party's current residential address, driver's license number, telephone number, employer, employer's address and employer's telephone number to the Family Court, and to the Division of Child Support Services in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), within 5 days of when the change occurs. Notice for purposes of enforcing or modifying a child support order shall mean:

(1) Mailed notice to the last known residential address provided to the Family Court by the party; or

(2) Upon a showing of diligent efforts to locate a party, mailed notice to the last known employment address provided to the Family Court by the party; provided, however, that where the respondent is a IV-D client as defined by regulation of the Secretary of the Department of Health and Social Services, the Division of Child Support Services shall be the appropriate agent for the receipt of any such notice.

(g) Upon receipt of a written request, or a request by other electronic means where available, from the Director of the Division of Child Support Services in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), any employer, as that term is defined in paragraph (b)(6) of this section, and any labor organization, as that term is defined in § 710 of Title 19, shall cooperate with and provide relevant employment and income information in the possession of such employer or labor organization to the Director or the Director's designee for the purpose of establishing, modifying or enforcing a child support order. Relevant employment and income information includes: Whether a named person has or has not been employed by an employer or whether a named person has or has not been employed to the knowledge of the labor organization; the full name of the employee or member; the employee's or member's last known address; the employee's or member's date of birth; the employee's or member's Social Security number; all income, as that term is defined in paragraph (b)(5) of this section, paid to the employee or member in the prior and current calendar year and the employee's or member's current rate of pay; and whether dependent health insurance coverage is available to the employee or member through employment or membership in the labor organization, together with information about the name of the health care insurer and the extent of the coverage available.

(1) An employer or labor organization shall be immune from any liability for providing information pursuant to this subsection.

(2) Any employer or labor organization which fails or refuses to provide the information described in this subsection within 30 days after receipt of a request from the Director of the Division of Child Support Services or as otherwise provided in such request shall be punished by a fine of not less than $100 nor more than $500. For a second or subsequent offense, such employer or labor organization shall be fined not less than $500 nor more than $1,000. A fine under this section may not be suspended. If the employer or labor organization is a corporation, criminal liability shall be established pursuant to §§ 281-284 of Title 11.

(h) In every child support action filed under this chapter or under Chapter 4, 6, or 8 of this title, the Family Court shall collect and maintain a record of the name, residential address, Social Security number, date of birth, driver's license number, telephone number, employer, employer address and employer telephone number of each party. Unless good cause is shown, the Family Court may limit access to this information.

(i) Notwithstanding any other law, rule or regulation to the contrary, a child support payment shall not be subject to attachment, garnishment or execution.

(27 Del. Laws, c. 262, § 4; Code 1915, § 3037; Code 1935, § 3530; 46 Del. Laws, c. 92, § 1; 13 Del. C. 1953, § 506; 59 Del. Laws, c. 567, § 1; 60 Del. Laws, c. 332, § 1; 63 Del. Laws, c. 273, § 1; 63 Del. Laws, c. 274, § 1; 64 Del. Laws, c. 139, §§ 1-3; 65 Del. Laws, c. 228, §§ 1, 10; 66 Del. Laws, c. 7, §§ 1, 2; 66 Del. Laws, c. 405, § 1; 66 Del. Laws, c. 406, § 1; 67 Del. Laws, c. 403, §§ 1-3; 67 Del. Laws, c. 446, §§ 3-5; 69 Del. Laws, c. 70, §§ 1, 2; 69 Del. Laws, c. 445, §§ 5-16; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 288, §§ 1-4; 71 Del. Laws, c. 216, §§ 8-11, 29-45, 51, 52; 73 Del. Laws, c. 278, § 1; 73 Del. Laws, c. 338, §§ 1-11; 75 Del. Laws, c. 236, §§ 1, 2, 3; 75 Del. Laws, c. 249, §§ 1, 2; 78 Del. Laws, c. 84, §§ 1, 2; 78 Del. Laws, c. 307, § 1; 79 Del. Laws, c. 111, § 1; 80 Del. Laws, c. 234, § 8; 80 Del. Laws, c. 337, §§ 1-3; 80 Del. Laws, c. 338, § 1; 81 Del. Laws, c. 335, § 1; 82 Del. Laws, c. 51, § 1; 84 Del. Laws, c. 42, § 1.)

§ 514. Determination of amount of support.

In determining the amount of support due to one to whom the duty of support has been found to be owing, the court, among other things, shall consider:

(1) The health, relative economic condition, financial circumstance, income, including the wages, and earning capacity of the parties, including the children;

(2) The manner of living to which the parties have been accustomed when they were living under the same roof;

(3) The general equities inherent in the situation.

(59 Del. Laws, c. 567, § 1.)

§ 515. Procedural rights of parties.

(a) All parties to a civil action brought pursuant to this chapter shall possess all procedural rights which such parties would have heretofore possessed in an action for support or separate maintenance in the Court of Chancery of the State, including but not limited to the following:

(1) Right to institute and retain complete control of the suit;

(2) Right to select counsel;

(3) Right to appeal to the Supreme Court of the State, on the record, from interlocutory or final orders or judgments. Such appeal shall be in the form and manner provided by the Rules of the Supreme Court.

(b) For purposes of this section, a child born out of wedlock shall possess the same procedural rights as a child born in wedlock and the mother of a child born out of wedlock shall possess the same procedural rights as the mother of a child born in wedlock.

(c) A complete record shall be made of all proceedings in which testimony is taken under this section, by court stenographer, tape recorder, or other device, the method to be at the discretion of the Court.

(d) The Family Court shall by rule provide for expedited procedures for the determination and enforcement of support obligations established under this chapter, Chapter 4 and Chapter 6 of this title. These procedures shall include, except in appropriate cases and on a showing of good cause as herein provided, the mandatory use of such expedited process before a hearing can be held before a judge. The Court shall by rule adopt procedures to provide, in appropriate cases, for the determination that there is good cause to proceed directly to a hearing before a judge.

(59 Del. Laws, c. 567, § 1; 65 Del. Laws, c. 228, § 4; 70 Del. Laws, c. 186, § 1.)

§ 516. Violation of support order for spouse or child; proceedings; contempt; assignment of income; employer's duties.

(a) If the Court, after notice to defendant and a hearing on a rule to show cause, concludes that the defendant has violated the terms of an order of support for a spouse or child, it may punish such defendant for contempt and may attach the defendant's income. Such punishment may not include commitment to the Department of Correction, including but not limited to institutional confinement, unless the defendant had actual clear notice of the order and had the ability to pay but wilfully failed to substantially comply with the obligation. The defendant must be provided the opportunity to avoid or be released from commitment to the Department of Correction upon a reasonable measure of compliance established by the Court. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), the income of a person with a support obligation imposed by a support order issued (or modified) in this State before October 1, 1996, if not otherwise subject to withholding under § 513 of this title, shall, by operation of law, become subject to withholding as provided in § 513 of this title if arrearages occur, without the need for a hearing.

(b) Order by income attachment and/or by direct payment an additional amount toward arrears in addition to any amount ordered pursuant to § 513(b) of this title.

(c) In cases where the Court deems it appropriate, it may accept a voluntary assignment of income from the defendant in lieu of an attachment of the defendant's income.

(d) The Court or the Division of Child Support Services shall notify the Department of Health and Social Services of any arrearage of support payments due from a defendant in order that the Department may proceed to set off said arrearage pursuant to §§ 1205-1209 (repealed) of Title 30 against any refund of personal income taxes to which said defendant may be entitled.

(e) Upon a finding by the Court of a violation of a support order after notice to a defendant and a hearing on a rule to show cause, and in the case of a defendant who derives income from self-employment by an employer not subject to the jurisdiction of the Court, or from any other type of employment which makes the attachment of income impractical, the Court shall require the person to enter into bond or other adequate collateral security, with or without sureties, to secure payment of the obligation to the Court in the amount of the past-due support plus a sum fixed by the Court to insure the payment of support as it becomes due for a period of not less than 3 months, conditioned upon the person making payment as previously ordered. The Court may order the cancellation of the bond or other collateral security upon proof of full payment of past-due and current support pursuant to the support order, as follows:

(1) The Court may order the cancellation of a bond or other collateral security imposed for a first violation of support order after proof of full payment of past-due and current support payments.

(2) The Court may order the cancellation of a bond or other collateral security imposed for a second violation of support order 12 months after proof of full payment of past-due and current support payments.

(3) The Court may order the cancellation of a bond or other collateral security imposed for a third violation of support order 24 months after proof of full payment of past-due and current support payments.

(f) When an arrearage has accrued for 90 days under a support order, and the existing support order does not include payment on arrears, the amount of the order shall, by operation of law, be increased by 10 percent of the current support order or $5.00, whichever is greater. The remedy specified for recovery of arrearages shall be in addition to and not in substitution for remedies available elsewhere for the enforcement of a support order.

(g) Upon a finding by the Court that an obligor owes $1,000 or more in arrears or retroactive support, is 30 or more days delinquent in payment of the child support order, and the failure to pay such arrears or retroactive support is wilful and not due to an inability to pay, in addition to any other orders, the Court may order the suspension of the obligor's license, as that term is defined in § 2216 of this title. Such an order shall also render the obligor ineligible for the issuance or renewal of any such license.

In all cases administered under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the Court shall forward such order to the Director of the Division of Child Support Services to be carried out pursuant to § 2216(g) of this title. In all other instances, the Court shall notify the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation of the denial or suspension of a license pursuant to this subsection. Such notification may be made electronically, by computer or by such other means as the Court and the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation may agree, and such notification shall constitute sufficient authority for the denial or suspension of any license.

The Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation shall forthwith deny the issuance or renewal of any license, or suspend the same, and so notify the obligor. The order of the Court shall be conclusive, and the action of the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation in compliance therewith shall be effective 4 days after the date notice of same is mailed to the obligor at the address on record at the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or the Division of Professional Regulation.

The obligor shall remain ineligible for the issuance, renewal or reinstatement of any license until the obligor obtains from the Court written certification that the grounds for denial or suspension of a license under this subsection no longer exist. Nothing in this subsection shall be construed as limiting the denial or suspension of any license as provided in § 2216 of this title.

(h) Notwithstanding any contrary provision of this chapter or Chapter 22 of this title, the Court may, in a pending proceeding related to child support, order the removal of any or all restrictions on licensed privileges proposed or imposed related to a failure to pay child support, and without regard to whether the suspension or revocation was a result of the action of the Court or the Division of Child Support Services where the removal of such restrictions is in the best interests of the child or children and the parties as it relates to the ability of the obligor to meet the obligor's parental obligations. The Court shall establish rebuttable standards in consultation with the Division of Child Support Services to insure the uniform and equitable application of the license suspension program.

(i) If the defendant has violated the terms of an order for support, and owes arrears, the Court may order the defendant to pay such support in accordance with a plan approved by the Court or the Division. If the defendant is subject to such a plan, and is not incapacitated, the Court may order an unemployed or under-employed defendant to participate in such work activities as may be available under a program operated by a state or private agency as the Court or the Division deems appropriate. In any case in which the Court orders the defendant to participate in work activities, the Court may also order the temporary decrease of support, mediation assistance, job training, peer support or any other program or intervention it deems necessary to assist the defendant in obtaining or maintaining appropriate employment.

(27 Del. Laws, c. 262, § 7; Code 1915, § 3040; 34 Del. Laws, c. 196, § 1; Code 1935, § 3533; 47 Del. Laws, c. 400, § 3; 13 Del. C. 1953, § 507; 57 Del. Laws, c. 254; 59 Del. Laws, c. 567, § 1; 63 Del. Laws, c. 70, § 1; 64 Del. Laws, c. 139, §§ 4, 5; 64 Del. Laws, c. 296, § 1; 65 Del. Laws, c. 228, § 2; 67 Del. Laws, c. 403, § 4; 67 Del. Laws, c. 446, § 7; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 452, § 2; 71 Del. Laws, c. 216, §§ 2, 46-50, 75-79, 81; 75 Del. Laws, c. 207, §§ 1, 5; 80 Del. Laws, c. 234, § 9; 84 Del. Laws, c. 500, § 1.)

§ 517. Termination of child support.

(a) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate by operation of law when all minor children subject to said order have reached 18 years; provided, however, that if a child over 18 is still enrolled in high school current support shall terminate by operation of law when the child receives a high school diploma or attains the age of 19, whichever event first occurs.

(b) An order of current child support entered by this Court or a court of competent jurisdiction in this State shall terminate if custody of all children who are the subject of said order is transferred to the obligated parent pursuant to an order of a court of competent jurisdiction or the written voluntary agreement of the parents.

(c) Notwithstanding the above, the obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid.

(66 Del. Laws, c. 7, § 3.)

§ 518. Accounting.

A person who receives funds from another person for the support of a child in that person's care is a fiduciary with respect to such funds and may be ordered by the Court to account for the expenditure and management of such funds on application by any payer of such funds for good cause shown. Any application filed for such an accounting shall state with particularity the reasons why it is being sought and the basis for believing that such an accounting is necessary. The Court may dismiss any application for an accounting if the application does not show good cause why such an accounting should be ordered, and the Court shall order that all costs and reasonable counsel fees incurred by the fiduciary in such fiduciary's defense be paid by the unsuccessful applicant. If an accounting is granted by the Court, it may equitably apportion the costs, including reasonable counsel fees, of the action among the parties to the proceeding after taking into account the legal and factual basis for the action, the results obtained, the financial resources of the parties, and such other factors as the Court deems just and equitable.

(67 Del. Laws, c. 446, § 6; 70 Del. C., c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 519. Child support liens.

Repealed by 71 Del. Laws, c. 216, § 160, effective July 25, 1997.

§ 520. Drivers', professional, occupational and business licenses.

Transferred.

Subchapter III

Criminal Enforcement

§§ 521-524. Desertion or failure to support spouse or child; penalty; probation; terms; procedure; appeal; stay of order of support.

Repealed by 70 Del. Laws, c. 448, § 2, effective July 5, 1996.

Chapter 6
Uniform Interstate Family Support Act
Subchapter I
General Provisions

§ 6-101. Short title.

This chapter may be cited as the "Uniform Interstate Family Support Act."

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-102. Definitions [Effective until Dec. 6, 2026].

In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

a. Which has been declared under the law of the United States to be a foreign reciprocating country;

b. Which has established a reciprocal arrangement for child support with this State as provided in § 6-308 of this title or under existing law or procedure of this State;

c. Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

d. In which the Convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by the income-withholding law of this State, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(16) "Obligee" means:

a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

b. A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

c. An individual seeking a judgment determining parentage of the individual's child; or

d. A person that is a creditor in a proceeding under subchapter VII of this chapter.

(17) "Obligor" means an individual, or the estate of a decedent that:

a. Owes or is alleged to owe a duty of support;

b. Is alleged but has not been adjudicated to be a parent of a child;

c. Is liable under a support order; or

d. Is a debtor in a proceeding under subchapter VII of this chapter.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to file in a tribunal of this State a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

a. Seek enforcement of support orders or laws relating to the duty of support;

b. Seek establishment or modification of child support;

c. Request determination of parentage of a child;

d. Attempt to locate obligors or their assets; or

e. Request determination of the controlling child-support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 110-112; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 1.)

§ 6-102. Definitions [Effective Dec. 6, 2026].

In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

a. Which has been declared under the law of the United States to be a foreign reciprocating country;

b. Which has established a reciprocal arrangement for child support with this State as provided in § 6-308 of this title or under existing law or procedure of this State;

c. Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

d. In which the Convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by the income-withholding law of this State, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Intended parent" means as defined in § 8-102 of this title.

(13) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(15) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(16) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(17) "Obligee" means:

a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

b. A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

c. An individual seeking a judgment determining parentage of the individual's child; or

d. A person that is a creditor in a proceeding under subchapter VII of this chapter.

(18) "Obligor" means an individual, or the estate of a decedent that:

a. Owes or is alleged to owe a duty of support;

b. Is alleged but has not been adjudicated to be a parent of a child;

c. Is liable under a support order; or

d. Is a debtor in a proceeding under subchapter VII of this chapter.

(19) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(20) "Parent" means as defined in § 8-102 of this title.

(21) "Parentage" means as defined in § 8-102 of this title.

(22) "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(23) "Presumed parent" means as defined in § 8-102 of this title.

(24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Register" means to file in a tribunal of this State a support order or judgment determining parentage of a child issued in another state or a foreign country.

(26) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(27) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(28) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(29) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(30) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

(31) “Support enforcement agency” means a public official, governmental entity, or private agency authorized to:

a. Seek enforcement of support orders or laws relating to the duty of support;

b. Seek establishment or modification of child support;

c. Request determination of parentage of a child;

d. Attempt to locate obligors or their assets; or

e. Request determination of the controlling child-support order.

(32) “Support order” means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney’s fees, and other relief.

(33) “Tribunal” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 110-112; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 1; 85 Del. Laws, c. 276, § 100.)

§ 6-103. State tribunal and support enforcement agency.

(a) The Family Court of the State of Delaware is the tribunal of this State.

(b) The Division of Child Support Services is the support enforcement agency of this State.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 113; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 1; 80 Del. Laws, c. 234, § 10.)

§ 6-104. Remedies cumulative.

(a) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) This chapter does not:

(1) Provide the exclusive method of establishing or enforcing a support order under the law of this State; or

(2) Grant a tribunal of this State jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 1.)

§ 6-105. Application of chapter to resident of foreign country and foreign support proceeding.

(a) A tribunal of this State shall apply subchapters I through VI of this chapter and, as applicable, subchapter VII of this chapter, to a support proceeding involving:

(1) A foreign support order;

(2) A foreign tribunal; or

(3) An obligee, obligor, or child residing in a foreign country.

(b) A tribunal of this State that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provision of subchapters I through VI of this chapter.

(c) Subchapter VII of this chapter applies only to a support proceeding under the Convention. In such a proceeding, if a provision of subchapter VII of this chapter is inconsistent with subchapters I through VI of this chapter, subchapter VII controls.

(80 Del. Laws, c. 60, § 1.)

Subchapter II

Jurisdiction

§ 6-201. Bases for jurisdiction over nonresident.

(a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual’s guardian or conservator if:

(1) The individual is personally served with notice within this State;

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

(3) The individual resided with the child in this State;

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

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

(6) The individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage of a child in the registry of paternity maintained in this State by the Office of Vital Statistics; or

(8) There is any other basis consistent with the Constitutions of this State and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) of this section or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of this State to modify a child support order of another state unless the requirements of § 6-611 of this title are met, or, in the case of a foreign support order, unless the requirements of § 6-615 of this title are met.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-202. Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of this State in a proceeding under this chapter or other law of this State relating to a support order continues as long as a tribunal of this State has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by §§ 6-205, 6-206, and 6-211 of this title.

(75 Del. Laws, c. 64, § 1.)

§ 6-203. Initiating and responding tribunal of State.

Under this chapter, a tribunal of this State may serve as an initiating tribunal to forward proceedings to a tribunal of another state, and as a responding tribunal for proceedings initiated in another state or a foreign country.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 116; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-204. Simultaneous proceedings.

(a) A tribunal of this State may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if:

(1) The petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;

(2) The contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and

(3) If relevant, this State is the home state of the child.

(b) A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

(1) The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

(2) The contesting party timely challenges the exercise of jurisdiction in this State; and

(3) If relevant, the other state or foreign country is the home state of the child.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-205. Continuing, exclusive jurisdiction to modify child-support order.

(a) A tribunal of this State that has issued a child-support order consistent with the law of this State has and shall exercise continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

(1) At the time of the filing of a request for modification this State is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) Even if this State is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this State may continue to exercise jurisdiction to modify its order.

(b) A tribunal of this State that has issued a child-support order consistent with the law of this State may not exercise continuing, exclusive jurisdiction to modify the order if:

(1) All of the parties who are individuals file consent in a record with the tribunal of this State that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(2) Its order is not the controlling order.

(c) If a tribunal of another state has issued a child-support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child-support order of a tribunal of this State, tribunals of this State shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d) A tribunal of this State that lacks continuing, exclusive jurisdiction to modify a child-support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 117-121; 75 Del. Laws, c. 64, § 1.)

§ 6-206. Continuing jurisdiction to enforce child-support order.

(a) A tribunal of this State that has issued a child-support order consistent with the law of this State may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or

(2) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) A tribunal of this State having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 122; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-207. Determination of controlling child-support order.

(a) If a proceeding is brought under this chapter and only 1 tribunal has issued a child-support order, the order of that tribunal controls and must be recognized.

(b) If a proceeding is brought under this chapter, and 2 or more child-support orders have been issued by tribunals of this State, another state, or a foreign country with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only 1 of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls.

(2) If more than 1 of the tribunals would have continuing, exclusive jurisdiction under this chapter:

a. An order issued by a tribunal in the current home state of the child controls; or

b. If an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this State shall issue a child-support order which controls.

(c) If 2 or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (b) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to subchapter VI of this chapter, or may be filed as a separate proceeding.

(d) A request to determine which is the controlling order must be accompanied by a copy of every child-support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(e) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section has continuing jurisdiction to the extent provided in § 6-205 or § 6-206 of this title.

(f) A tribunal of this State that determines by order which is the controlling order under paragraph (b)(1) or (2) or subsection (c) of this section, or that issues a new controlling order under paragraph (b)(3) of this section, shall state in that order:

(1) The basis upon which the tribunal made its determination;

(2) The amount of prospective support, if any; and

(3) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by § 6-209 of this title.

(g) Within 30 days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 124; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-208. Child-support orders for 2 or more obligees.

In responding to registrations or petitions for enforcement of 2 or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least 1 of which was issued by a tribunal of another state or a foreign country, a tribunal of this State shall enforce those orders in the same manner as if the orders had been issued by a tribunal of this State.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 125, 126; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-209. Credit for payments.

A tribunal of this State shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of this State, another state, or a foreign country.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-210. Application of this chapter to nonresident subject to personal jurisdiction.

A tribunal of this State exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this State relating to a support order, or recognizing a foreign support order may receive evidence from outside this State pursuant to § 6-316 of this title, communicate with a tribunal outside this State pursuant to § 6-317 of this title, and obtain discovery through a tribunal outside this State pursuant to § 6-318 of this title. In all other respects subchapters III through VI of this chapter do not apply and the tribunal shall apply the procedural and substantive law of this State.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

§ 6-211. Continuing, exclusive jurisdiction to modify spousal-support order.

(a) A tribunal of this State issuing a spousal-support order consistent with the law of this State has continuing, exclusive jurisdiction to modify the spousal-support order throughout the existence of the support obligation.

(b) A tribunal of this State may not modify a spousal-support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) A tribunal of this State that has continuing, exclusive jurisdiction over a spousal-support order may serve as:

(1) An initiating tribunal to request a tribunal of another state to enforce the spousal-support order issued in this State; or

(2) A responding tribunal to enforce or modify its own spousal-support order.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 117-121; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 2.)

Subchapter III

Civil Provisions of General Application

§ 6-301. Proceedings under this chapter.

(a) Except as otherwise provided in this chapter, the provisions of this subchapter apply to all proceedings under this chapter.

(b) An individual petitioner or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 127-129; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-302. Proceeding by minor parent.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-303. Application of law of State.

Except as otherwise provided in this chapter, a responding tribunal of this State shall:

(1) Apply the procedural and substantive law generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) Determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 130; 75 Del. Laws, c. 64, § 1.)

§ 6-304. Duties of initiating tribunal.

(a) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this State shall forward the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding state. If the responding tribunal is in a foreign country, upon request the tribunal of this State shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market

exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 131; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-305. Duties and powers of responding tribunal.

(a) When a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to § 6-301(b) of this title, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this State, to the extent not prohibited by other law, may do one or more of the following:

(1) Establish or enforce a support order, modify a child-support order, determine the controlling child-support order, or determine parentage of a child;

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) Order income withholding;

(4) Determine the amount of any arrearages, and specify a method of payment;

(5) Enforce orders by civil or criminal contempt, or both;

(6) Set aside property for satisfaction of the support order;

(7) Place liens and order execution on the obligor's property;

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) Issue a capias for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the capias in any local and State computer systems for criminal warrants;

(10) Order the obligor to seek appropriate employment by specified methods;

(11) Award reasonable attorney's fees and other fees and costs; and

(12) Grant any other available remedy.

(c) A responding tribunal of this State shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this State may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this State issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this State shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 132-134; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-306. Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this State, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal of this State or another state and notify the petitioner where and when the pleading was sent.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 135; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-307. Duties of support enforcement agency.

(a) In a proceeding under this chapter, a support enforcement agency of this State, upon request:

(1) Shall provide services to a petitioner residing in a state;

(2) Shall provide services to a petitioner requesting services through a central authority of a foreign country as described in § 6-102(5)a. or d. of this title; and

(3) May provide services to a petitioner who is an individual not residing in a state.

(b) A support enforcement agency of this State that is providing services to the petitioner shall:

(1) Take all steps necessary to enable an appropriate tribunal of this State, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) Request an appropriate tribunal to set a date, time, and place for a hearing;

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) Within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(5) Within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of this State that requests registration of a child-support order in this State for enforcement or for modification shall make reasonable efforts:

(1) To ensure that the order to be registered is the controlling order; or

(2) If two or more child-support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(d) A support enforcement agency of this State that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(e) A support enforcement agency of this State shall issue or request a tribunal of this State to issue a child-support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to § 6-319 of this title.

(f) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 136, 137; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-308. Duty of state official or agency.

(a) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

(b) The Attorney General may determine that a foreign country has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-309. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-310. Duties of state information agency.

(a) The Division of Child Support Services is the state information agency under this chapter.

(b) The state information agency shall:

(1) Compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this chapter and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state;

(2) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(3) Forward to the appropriate tribunal in the county in this State in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and

(4) Obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 138; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3; 80 Del. Laws, c. 234, § 11.)

§ 6-311. Pleadings and accompanying documents.

(a) In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under § 6-312 of this title, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, Social Security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-312. Nondisclosure of information in exceptional circumstances.

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-313. Costs and fees.

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal of this State may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under subchapter VI of this chapter, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-314. Limited immunity of petitioner.

(a) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this chapter.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while physically present in this State to participate in the proceeding.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-315. Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-316. Special rules of evidence and procedure.

(a) The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

(c) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from outside this State, or the support enforcement agency of this State, to a tribunal of this State by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this chapter, a tribunal of this State shall permit a party or witness residing outside this State to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

(69 Del. Laws, c. 238, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 216, § 139; 75 Del. Laws, c. 64, § 1; 79 Del. Laws, c. 389, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-317. Communications between tribunals.

A tribunal of this State may communicate with a tribunal outside this State in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this State may furnish similar information by similar means to a tribunal outside this State.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-318. Assistance with discovery.

A tribunal of this State may:

(1) Request a tribunal outside this State to assist in obtaining discovery; and

(2) Upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this State.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3.)

§ 6-319. Receipt and disbursement of payments.

(a) A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this State, upon request from the support enforcement agency of this State or another state, the Division of Child Support Services or a tribunal of this State shall:

(1) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(2) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) The support enforcement agency of this State receiving redirected payments from another state pursuant to a law similar to subsection (b) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by a custodian of the record of the amount and dates of all payments received.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 3; 80 Del. Laws, c. 234, § 11.)

Subchapter IV

Establishment of Support Order or Determination of Parentage

§ 6-401. Establishment of support order [Effective until Dec. 6, 2026].

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this State with personal jurisdiction over the parties may issue a support order if:

(1) The individual seeking the order resides outside this State; or

(2) The support enforcement agency seeking the order is located outside this State.

(b) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) A presumed father of the child;

(2) Petitioning to have the individual's own paternity adjudicated;

(3) Identified as the father of the child through genetic testing;

(4) An alleged father who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the father of the child;

(6) An acknowledged father as provided by Chapter 8 of this title;

(7) The mother of the child; or

(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to § 6-305 of this title.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 140; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 4; 84 Del. Laws, c. 42, § 1.)

§ 6-401. Establishment of support order [Effective Dec. 6, 2026].

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this State with personal jurisdiction over the parties may issue a support order if:

(1) The individual seeking the order resides outside this State; or

(2) The support enforcement agency seeking the order is located outside this State.

(b) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) A presumed parent of the child;

(2) Petitioning to have the individual's own parentage adjudicated;

(3) Identified as the genetic parent of the child through genetic testing;

(4) An alleged parent who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the parent of the child;

(6) Shown by clear and convincing evidence to be an intended parent;

(7) An acknowledged parent as provided by Chapter 8 of this title;

(8) The mother of the child; or

(9) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to § 6-305 of this title.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 140; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 4; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 101.)

§ 6-402. Proceeding to determine parentage.

A tribunal of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.

(80 Del. Laws, c. 60, § 4.)

Subchapter V

Enforcement of Support Order of Another State Without Registration

§ 6-501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under the income-withholding law of this State without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 142; 75 Del. Laws, c. 64, § 1.)

§ 6-502. Employer's compliance with income-withholding order of another state.

(a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(c) Except as otherwise provided in subsection (d) of this section and § 6-503 of this title, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) The duration and amount of periodic payments of current child-support, stated as a sum certain;

(2) The person designated to receive payments and the address to which the payments are to be forwarded;

(3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) The employer's fee for processing an income-withholding order;

(2) The maximum amount permitted to be withheld from the obligor's income; and

(3) The times within which the employer must implement the withholding order and forward the child-support payment.

(71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1.)

§ 6-503. Employer's compliance with 2 or more income-withholding orders.

If an obligor's employer receives 2 or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for 2 or more child-support obligees.

(71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1.)

§ 6-504. Immunity from civil liability.

An employer that complies with an income-withholding order issued in another state in accordance with this subchapter is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

(71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 5.)

§ 6-505. Penalties for noncompliance.

An employer that wilfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

(71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 5.)

§ 6-506. Contest by obligor.

(a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State by registering the order in a tribunal of this State and filing a contest to that order as provided in subchapter VI of this chapter, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this State.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) Each employer that has directly received an income-withholding order relating to the obligor; and

(3) The person designated to receive payments in the income-withholding order, or if no person is designated, to the obligee.

(71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1.)

§ 6-507. Administrative enforcement of orders.

(a) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this State.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 143; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 5.)

Subchapter VI

Registration, Enforcement, and Modification of Support Order

Part 1

Registration for Enforcement of Support Order.

§ 6-601. Registration of order for enforcement.

A support order or income-withholding order issued in another state or a foreign support order may be registered in this State for enforcement.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-602. Procedure to register order for enforcement.

(a) Except as otherwise provided in § 6-706 of this title, a support order or income-withholding order of another state or a foreign support order may be registered in this State by sending, either physically or electronically, the following records to the Family Court in this State:

(1) A letter of transmittal to the tribunal requesting registration and enforcement;

(2) A certified copy of the order to be registered, including any modification of the order;

(3) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) The name of the obligor and, if known:

a. The obligor's address and Social Security number;

b. The name and address of the obligor's employer and any other source of income of the obligor;

c. A description and the location of property of the obligor in this State not exempt from execution; and

(5) Except as otherwise provided in § 6-312 of this title, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with 1 copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) If 2 or more orders are in effect, the person requesting registration shall:

(1) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(2) Specify the order alleged to be the controlling order, if any; and

(3) Specify the amount of consolidated arrears, if any.

(e) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 79 Del. Laws, c. 389, § 2; 80 Del. Laws, c. 60, § 6.)

§ 6-603. Effect of registration for enforcement.

(a) A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this State.

(b) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(c) Except as otherwise provided in this chapter, a tribunal of this State shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-604. Choice of law.

(a) Except as otherwise provided in subsection (d) of this section, the law of the issuing state or foreign country governs:

(1) The nature, extent, amount, and duration of current payments under a registered support order;

(2) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(3) The existence and satisfaction of other obligations under the support order.

(b) In a proceeding for arrears under a registered support order, the statute of limitation of this State or of the issuing state or foreign country, whichever is longer, applies.

(c) A responding tribunal of this State shall apply the procedures and remedies of this State to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this State.

(d) After a tribunal of this State or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

Part 2

Contest of Validity or Enforcement

§ 6-605. Notice of registration of order.

(a) When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this State shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) A notice must inform the nonregistering party:

(1) That a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice unless the registered order is under § 6-707 of this title;

(3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(4) Of the amount of any alleged arrearages.

(c) If the registering party asserts that 2 or more orders are in effect, a notice must also:

(1) Identify the 2 or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) Notify the nonregistering party of the right to a determination of which is the controlling order;

(3) State that the procedures provided in subsection (b) of this section apply to the determination of which is the controlling order; and

(4) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(d) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this State.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 146, 147; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-606. Procedure to contest validity or enforcement of registered support order.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this State shall request a hearing within the time required by § 6-605 of this title. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered support order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to § 6-607 of this title.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 148, 149; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-607. Contest of registration or enforcement.

(a) A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party;

(2) The order was obtained by fraud;

(3) The order has been vacated, suspended, or modified by a later order;

(4) The issuing tribunal has stayed the order pending appeal;

(5) There is a defense under the law of this State to the remedy sought;

(6) Full or partial payment has been made;

(7) The statute of limitation under § 6-604 of this title precludes enforcement of some or all of the alleged arrearages; or

(8) The alleged controlling order is not the controlling order.

(b) If a party presents evidence establishing a full or partial defense under subsection (a) of this section, a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this State.

(c) If the contesting party does not establish a defense under subsection (a) of this section to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-608. Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

Part 3

Registration and Modification of Child-Support Order of Another State

§ 6-609. Procedure to register child-support order of another state for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this State in the same manner provided in §§ 6-601 through 6-608 of this title if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, §§ 151, 152; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-610. Effect of registration for modification.

A tribunal of this State may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered support order may be modified only if the requirements of § 6-611 or § 6-613 of this title have been met.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 153; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-611. Modification of child-support order of another state.

(a) If § 6-613 of this title does not apply, upon petition a tribunal of this State may modify a child-support order issued in another state which is registered in this State if, after notice and hearing, the tribunal finds that:

(1) The following requirements are met:

a. Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

b. A petitioner who is a nonresident of this State seeks modification; and

c. The respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) This State is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this State, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction.

(b) Modification of a registered child-support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If 2 or more tribunals have issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under § 6-207 of this title establishes the aspects of the support order which are nonmodifiable.

(d) In a proceeding to modify a child-support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this State.

(e) On the issuance of an order by a tribunal of this State modifying a child-support order issued in another state, the tribunal of this State becomes the tribunal having continuing, exclusive jurisdiction.

(f) Notwithstanding subsections (a) through (e) of this section and § 6-201(b) of this title, a tribunal of this State retains jurisdiction to modify an order issued by a tribunal of this State if:

(1) One party resides in another state; and

(2) The other party resides outside the United States.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 154; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-612. Recognition of order modified in another state.

If a child-support order issued by a tribunal of this State is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this State:

(1) May enforce its order that was modified only as to arrears and interest accruing before the modification;

(2) May provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

(69 Del. Laws, c. 238, § 1; 71 Del. Laws, c. 216, § 155; 75 Del. Laws, c. 64, § 1.)

§ 6-613. Jurisdiction to modify child-support order of another state when individual parties reside in this State.

(a) If all of the parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.

(b) A tribunal of this State exercising jurisdiction under this Section shall apply the provisions of subchapters I and II of this chapter, this subchapter, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Subchapters III, IV, V, VII and VIII of this chapter do not apply.

(71 Del. Laws, c. 216, § 156; 75 Del. Laws, c. 64, § 1.)

§ 6-614. Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate

sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

(71 Del. Laws, c. 216, § 156; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

Part 4

Registration and Modification of Foreign Child-Support Order

§ 6-615. Jurisdiction to modify child-support order of foreign country.

(a) Except as otherwise provided in § 6-711 of this title, if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this State may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child-support order otherwise required of the individual pursuant to § 6-611 of this title has been given or whether the individual seeking modification is a resident of this State or of the foreign country.

(b) An order issued by a tribunal of this State modifying a foreign child-support order pursuant to this section is the controlling order.

(75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 6.)

§ 6-616. Procedure to register child-support order of foreign country for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child-support order not under the Convention may register that order in this State under §§ 6-601 through 6-608 of this title if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

(80 Del. Laws, c. 60, § 6.)

Subchapter VII

Support Proceeding Under Convention

§ 6-701. Definitions.

In this subchapter:

(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in § 6-102(5)d. of this title to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in § 6-102(5)d. of this title.

(4) "Direct request" means a petition filed by an individual in a tribunal of this State in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in § 6-102(5)d. of this title to perform the functions specified in the Convention.

(6) "Foreign support agreement":

a. Means an agreement for support in a record that:

1. Is enforceable as a support order in the country of origin;

2. Has been:

A. Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

B. Authenticated by, or concluded, registered, or filed with a foreign tribunal; and

3. May be reviewed and modified by a foreign tribunal; and

b. Includes a maintenance arrangement or authentic instrument under the Convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

(80 Del. Laws, c. 60, § 7.)

§ 6-702. Applicability.

This subchapter applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this subchapter is inconsistent with subchapters I through VI of this chapter, this subchapter controls.

(80 Del. Laws, c. 60, § 7.)

§ 6-703. Relationship of Division of Child Support Services to United States central authority.

The Division of Child Support Services of this State is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

(80 Del. Laws, c. 60, § 7; 80 Del. Laws, c. 234, § 12.)

§ 6-704. Initiation by Division of Child Support Services of support proceeding under Convention.

(a) In a support proceeding under this subchapter, the Division of Child Support Services of this State shall:

(1) Transmit and receive applications; and

(2) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this State.

(b) The following support proceedings are available to an obligee under the Convention:

(1) Recognition or recognition and enforcement of a foreign support order;

(2) Enforcement of a support order issued or recognized in this State;

(3) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) Establishment of a support order if recognition of a foreign support order is refused under § 6-708(b)(2), (4), or (9) of this title;

(5) Modification of a support order of a tribunal of this State; and

(6) Modification of a support order of a tribunal of another state or a foreign country.

(c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(1) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this State;

(2) Modification of a support order of a tribunal of this State; and

(3) Modification of a support order of a tribunal of another state or a foreign country.

(d) A tribunal of this State may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

(80 Del. Laws, c. 60, § 7; 80 Del. Laws, c. 234, § 13.)

§ 6-705. Direct request.

(a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this State applies.

(b) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, §§ 6-706 through 6-713 of this title apply.

(c) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(1) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(2) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this State under the same circumstances.

(d) A petitioner filing a direct request is not entitled to assistance from the Division of Child Support Services.

(e) This subchapter does not prevent the application of laws of this State that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

(80 Del. Laws, c. 60, § 7; 80 Del. Laws, c. 234, § 13.)

§ 6-706. Registration of Convention support order.

(a) Except as otherwise provided in this subchapter, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this State as provided in subchapter VI of this chapter.

(b) Notwithstanding §§ 6-311 and 6-602(a) of this title, a request for registration of a Convention support order must be accompanied by:

(1) A complete text of the support order;

(2) A record stating that the support order is enforceable in the issuing country;

(3) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) A record showing the amount of arrears, if any, and the date the amount was calculated;

(5) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) A tribunal of this State may vacate the registration of a Convention support order without the filing of a contest under § 6-707 of this title only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

(80 Del. Laws, c. 60, § 7.)

§ 6-707. Contest of registered Convention support order.

(a) Except as otherwise provided in this chapter, §§ 6-605 through 6-608 of this title apply to a contest of a registered Convention support order.

(b) A party contesting a registered Convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than 60 days after notice of the registration.

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b) of this section, the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in § 6-708 of this title. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of this State:

(1) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) May not review the merits of the order.

(f) A tribunal of this State deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

(g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

(80 Del. Laws, c. 60, § 7.)

§ 6-708. Recognition and enforcement of registered Convention support order.

(a) Except as otherwise provided in subsection (b) of this section, a tribunal of this State shall recognize and enforce a registered Convention support order.

(b) The following grounds are the only grounds on which a tribunal of this State may refuse recognition and enforcement of a registered Convention support order:

(1) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) The issuing tribunal lacked personal jurisdiction consistent with § 6-201 of this title;

(3) The order is not enforceable in the issuing country;

(4) The order was obtained by fraud in connection with a matter of procedure;

(5) A record transmitted in accordance with § 6-706 of this title lacks authenticity or integrity;

(6) A proceeding between the same parties and having the same purpose is pending before a tribunal of this State and that proceeding was the first to be filed;

(7) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this State;

(8) Payment, to the extent alleged arrears have been paid in whole or in part;

(9) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country;

a. If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

b. If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) The order was made in violation of § 6-711 of this title.

(c) If a tribunal of this State does not recognize a Convention support order under paragraphs (b)(2), (4), or (9) of this section:

(1) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) The Division of Child Support Services shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under § 6-704 of this title.

(80 Del. Laws, c. 60, § 7; 80 Del. Laws, c. 234, § 13.)

§ 6-709. Partial enforcement.

If a tribunal of this State does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

(80 Del. Laws, c. 60, § 7.)

§ 6-710. Foreign support agreement.

(a) Except as otherwise provided in subsections (c) and (d) of this section, a tribunal of this State shall recognize and enforce a foreign support agreement registered in this State.

(b) An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by:

(1) A complete text of the foreign support agreement; and

(2) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) A tribunal of this State may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) In a contest of a foreign support agreement, a tribunal of this State may refuse recognition and enforcement of the agreement if it finds:

(1) Recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) The agreement was obtained by fraud or falsification;

(3) The agreement is incompatible with a support order involving the same parties and having the same purpose in this State, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this State; or

(4) The record submitted under subsection (b) of this section lacks authenticity or integrity.

(e) A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

(80 Del. Laws, c. 60, § 7.)

§ 6-711. Modification of Convention child-support order.

(a) A tribunal of this State may not modify a Convention child-support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) The obligee submits to the jurisdiction of a tribunal of this State, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) If a tribunal of this State does not modify a Convention child-support order because the order is not recognized in this State, § 6-708(c) of this title applies.

(80 Del. Laws, c. 60, § 7.)

§ 6-712. Personal information; limit on use.

Personal information gathered or transmitted under this subchapter may be used only for the purposes for which it was gathered or transmitted.

(80 Del. Laws, c. 60, § 7.)

§ 6-713. Record in original language; English translation.

A record filed with a tribunal of this State under this subchapter must be in the original language and, if not in English, must be accompanied by an English translation.

(80 Del. Laws, c. 60, § 7.)

Subchapter VIII

Interstate Rendition

§ 6-801. Grounds for rendition.

(a) For purposes of this chapter, "Governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(b) The Governor of this State may:

(1) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee; or

(2) On the demand of the governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

§ 6-802. Conditions of rendition.

(a) Before making a demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor of this State may require a prosecutor of this State to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(b) If, under this chapter or a law substantially similar to this chapter, the governor of another state makes a demand that the Governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1.)

Subchapter IX

Miscellaneous Provisions

§ 6-901. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(69 Del. Laws, c. 238, § 1; 75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 9.)

§ 6-902. Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(75 Del. Laws, c. 64, § 1.)

§ 6-903. Transitional provision.

This chapter applies to proceedings begun on or after July 1, 2015, to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered. Any determination of support or nonsupport made under the law of this State prior to July 1, 2015, remains in force and effect.

(75 Del. Laws, c. 64, § 1; 80 Del. Laws, c. 60, § 9.)

Chapter 7
Parents and Children
Subchapter I
General Provisions

§ 701. Rights and responsibilities of parents; guardian appointment.

(a) The father and mother are the joint natural guardians of their minor child and are equally charged with the child's support, care, nurture, welfare and education. Each has equal powers and duties with respect to such child, and neither has any right, or presumption of right or fitness, superior to the right of the other concerning such child's custody or any other matter affecting the child. If either parent should die, or abandon the family, or is incapable, for any reason, to act as guardian of such child, then, the custody of such child devolves upon the other parent. Where the parents live apart, the Court may award the custody of their minor child to either of them and neither shall benefit from any presumption of being better suited for such award.

(b) This section shall not affect the laws of this State relative to the appointment of a guardian of the property of a minor, or the appointment of a third person as a guardian of the person of the minor where the parents are unsuitable or where the child's interests would be adversely affected by remaining under the natural guardianship of such child's parents or parent.

(c) [Repealed.]

(35 Del. Laws, c. 191, § 1; Code 1935, § 3576; 13 Del. C. 1953, § 701; 59 Del. Laws, c. 569, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 451, §§ 2, 3; 77 Del. Laws, c. 43, § 12; 84 Del. Laws, c. 42, § 1.)

§ 702. Duty to support minor child.

Repealed by 59 Del. Laws, c. 567, § 2.

§ 703. Services and earnings of minor child.

The father and mother of a minor child are equally entitled to its services and earnings, and if 1 of the parents is dead or has abandoned the child or has been deprived of its custody by court decree the other parent shall be entitled to such services and earnings.

(35 Del. Laws, c. 191, § 2; Code 1935, § 3577; 13 Del. C. 1953, § 703.)

§ 704. Action for loss of wages or services of minor child.

The parents jointly may maintain an action for loss of wages or services of the minor child when such loss is occasioned by injury wrongfully or negligently inflicted upon the child. If either the father or mother is dead or has abandoned the child or has been deprived of its custody by court decree or refuses to sue, the other parent may sue alone. Nothing contained in this section shall be deemed to supersede, limit, modify or affect the workers' compensation laws of this State.

(35 Del. Laws, c. 191, § 3; Code 1935, § 3578; 13 Del. C. 1953, § 704; 70 Del. Laws, c. 186, § 1.)

§§ 705, 706. Charge and custody of minor child if parents are separated but not divorced; proceedings for care of children of immoral or negligent parents.

Repealed by 59 Del. Laws, c. 569, § 1.

§ 707. Consent to health care of minors.

(a) *Definitions.* — As used in this section:

(1) "Blood testing" includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) testing and other blood testing deemed necessary by documented history or symptomatology but excludes HIV/AIDS testing and controlled substance testing or any other testing for which separate court order or informed consent as provided by law is required.

(2) "Medical treatment" means developmental screening, mental health screening and treatment, and ordinary and necessary medical and dental examination and treatment, including blood testing, preventive care including ordinary immunizations, tuberculin testing and well-child care. Medical treatment also means the examination and treatment of any laceration, fracture or other traumatic injury, or any symptom, disease or pathology which may, in the judgment of the treating health care professional, if left untreated, reasonably be expected to threaten health or life.

(3) "Relative caregiver" or "caregiver" means an adult person, who by blood, marriage or adoption, is the great grandparent, grandparent, step grandparent, great aunt, aunt, great uncle, uncle, stepparent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed of a minor and with whom the minor resides, but who is not the legal custodian or guardian of the minor.

(b) *Parties authorized to give consent.* — Consent to the performance upon or for any minor by any licensed medical, surgical, dental, psychological or osteopathic practitioner or any nurse practitioner/clinical nurse specialist or any hospital or public clinic or their agents or employees of any lawful medical treatment, and to the furnishing of hospitalization and other reasonably necessary care in connection therewith, may be given by:

(1) A parent or guardian of any minor for such minor;

(2) A married minor for such minor or, if such married minor be unable to give consent by reason of disability, then by such minor's spouse;

(3) A minor of the age of 18 years or more for such minor;

(4) A minor parent for such minor parent's child;

(5) A minor or by any person professing to be serving as temporary custodian of such minor at the request of a parent or guardian of such minor for the examination and treatment of (i) any laceration, fracture or other traumatic injury suffered by such minor, or (ii) any symptom, disease or pathology which may, in the judgment of the attending personnel preparing such treatment, if untreated, reasonably be expected to threaten the health or life of such minor; provided, however, that the consent given shall be effective only after reasonable efforts shall have been made to obtain the consent of the parent or guardian of said minor; or

(6) A relative caregiver acting pursuant to an Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors.

(c) *Effect of consent.* — Any consent given by or for a minor pursuant to the authority of any provision of this chapter shall be valid and effective for all purposes, and, notwithstanding any misrepresentation as to age, status as parent, guardian or custodian or as to marital status, made to any practitioner, hospital or clinic for purposes of inducing the furnishing of health care to such minor, shall bind such minor, that minor's parent, spouse, heirs, executors and administrators and shall not be subject to subsequent disaffirmance by reason of minority.

(d) *Liability of persons responsible for medical care.* — Nothing contained in this section shall be construed to relieve any practitioner, hospital, clinic or their agents or employees from liability for negligence in diagnosis, care and treatment or for the performance of any procedure not reasonably required for the preservation of life or health.

(13 Del. C. 1953, § 707; 54 Del. Laws, c. 386; 58 Del. Laws, c. 272; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 187, §§ 1-5; 84 Del. Laws, c. 42, § 1.)

§ 708. Affidavit of Establishment of Power to Consent to Medical Treatment of Minors.

(a) There is created an Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors. The affidavit shall include, at a minimum, the name and date of birth of the minor; a statement signed by the caregiver that the caregiver is 18 years of age or older and that the minor resides with the caregiver; the names and signatures of the parents, legal custodian or guardian of the minor indicating their approval of the caregiver's power or, if a parent, custodian or guardian of the minor is unavailable, a statement of reasonable effort made by the caregiver to locate the parent, custodian or guardian based on criteria set forth in the regulations; the name of the caregiver; relationship of the caregiver to the minor documented by proof as defined by regulation; and the dated signature of the caregiver. The signature of the caregiver shall be notarized.

(b) The affidavit is valid for 1 year unless the minor no longer resides in the caregiver's home or a parent, custodian or guardian revokes the approval. If a parent, custodian or guardian revokes approval, the caregiver shall notify any health care provider or health service plans with which the minor has been involved through the caregiver.

(c) A caregiver must present a completed Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minor when seeking medical treatment for a minor.

(d) The decision of a relative caregiver to consent to or to refuse medical treatment for a minor shall be superseded by a decision of a parent, legal custodian or guardian of the minor.

(e) No person who relies in good faith upon a fully executed Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors in providing medical treatment shall be subject to criminal or civil liability or to professional disciplinary action because of the reliance. This immunity applies even if medical treatment is provided to a minor in contravention of a decision of a parent, legal custodian or guardian of the minor who signed the affidavit if the person providing care has no actual knowledge of the decision of the parent, or legal custodian or guardian.

(f) The decision of a relative caregiver, based upon an Affidavit of Establishment Power to Relative Caregivers to Consent to Medical Treatment of Minors, shall be honored by a health care facility or practitioner unless the health care facility or practitioner has actual knowledge that a parent, legal custodian or guardian of a minor has made a contravening decision to consent to or to refuse medical treatment for the minor.

(g) A person who knowingly makes a false statement in an affidavit under this section shall be subject to a civil penalty of $1,000 per child. Justices of the peace shall have jurisdiction of these cases.

(h) The Department of Health and Social Services is authorized to promulgate regulations to implement this section.

(72 Del. Laws, c. 187, § 7; 84 Del. Laws, c. 42, § 1.)

§ 709. Consent of a minor to donate blood voluntarily without the necessity of obtaining parental permission or authorization.

(a) Anything otherwise provided in the law to the contrary notwithstanding, any person over 17 years old shall be eligible to donate blood in any voluntary and noncompensatory blood program without parental permission or authorization.

(b) The consent given by a minor under this section shall, notwithstanding such minority, be valid and legally effective for all purposes and shall be binding upon such minor, such minor's parents, legal guardians, spouse, heirs, executors and administrators as effectively as if such minor were 18 years of age or over at the time of giving such consent. A minor giving such consent shall be deemed to have the same legal capacity to act and the same legal obligations with regard to giving such consent as if such minor were 18 years of age or over. Consent so given shall not be subject to later disaffirmance by reason of such minority and the consent of no other person or court shall be necessary for performance of the lawful procedures required to be performed in order to receive such donation.

(c) Such consent so given by a minor as described above shall be interpreted as a contract permitting penetration of tissue which is necessary to accomplish such donation.

(13 Del. C. 1953, § 710; 57 Del. Laws, c. 464; 63 Del. Laws, c. 208, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 710. Minors' consent to diagnostic and lawful therapeutic procedures relating to care and treatment for pregnancy or contagious diseases.

(a) A minor 12 years of age or over who professes to be either pregnant or afflicted with contagious, infectious or communicable diseases within the meaning of Chapters 5 and 7 of Title 16, or who professes to be exposed to the chance of becoming pregnant, may give written consent, except to abortion, to any licensed physician, hospital or public clinic for any diagnostic, preventive, lawful therapeutic procedures, medical or surgical care and treatment, including X rays, by any physician licensed for the practice of medicine or surgery or osteopathic medicine or surgery in this State and by any hospital or public clinic, their qualified employees or agents while acting within the scope of their employment.

(b) Consent so given by a minor 12 years of age or over shall, notwithstanding such minority, be valid and legally effective for all purposes, regardless of whether such minor's profession of pregnancy or contagious disease is subsequently medically confirmed, and shall be binding upon such minor, such minor's parents, legal guardians, spouse, heirs, executors and administrators as effectively as if the minor were of full legal age at the time of giving of the consent. A minor giving the consent shall be deemed to have the same legal capacity to act and the same legal obligations with regard to giving consent as if the minor were of full legal age. Consent so given shall not be subject to later disaffirmance by reason of such minority; and the consent of no other person or court shall be necessary for the performance of the diagnostic and lawful therapeutic procedures, medical or surgical care and treatment rendered such minor.

(c) The physician licensed for the practice of medicine or surgery or hospital to whom such consent shall be given may, in the sole exercise of that physician's, surgeon's, or hospital's discretion, either provide or withhold from the parents or legal guardian or spouse of such minor such information as to diagnosis, therapeutic procedures, care and treatment rendered or to be rendered the minor as such physician, surgeon or hospital deems to be advisable under the circumstances, having primary regard for the interests of the minor.

(d) The parents, legal guardian or spouse of a consenting minor shall not be liable for payment for diagnostic and lawful therapeutic procedures performed, medical or surgical care or treatment rendered or hospital confinement pursuant to this section.

(e) Notice of intention to perform any operation otherwise permitted under this section shall be given the parents or legal guardian of such minor at their last known address, if available, by telegram sent at time of diagnosis by the surgeon designated to perform such operation; provided, that such operation may proceed forthwith after diagnosis if there is reason to believe that delay would endanger the life of such minor or there is a reasonable probability of irreparable injury.

(f) Nothing contained in this section shall be construed to relieve any licensed physician, hospital or public clinic, their agents or employees, from liability for their negligence in the diagnosis, care and treatment rendered such minor.

(13 Del. C. 1953, § 708; 57 Del. Laws, c. 369; 58 Del. Laws, c. 459; 59 Del. Laws, c. 441, §§ 1-3; 60 Del. Laws, c. 544, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 187, § 6; 84 Del. Laws, c. 42, § 1.)

Subchapter II

Custody Proceedings

§ 721. Commencement of proceedings; venue; notice; pleadings; attorney for child; removal from jurisdiction; considerations.

(a) A child custody proceeding is commenced in the Family Court of the State, or as otherwise provided by law, by a parent filing a petition seeking custody of the child in the county where the child is permanently a resident or where the child is found.

(b) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The Court may, upon a showing of good cause, permit the intervention of other interested parties.

(c) The Court may, in the interest of the child, appoint an attorney to represent the child in the proceedings. A fee for an attorney so appointed shall be allowed as part of the costs of the proceeding.

(d) Upon the filing of a petition for custody or visitation, a preliminary injunction shall be issued against both parties to the action, enjoining them from removing any natural or adopted child of the parties then residing in Delaware from the jurisdiction of this Court without the prior written consent of the parties or the permission of the Court. The preliminary injunction shall be effective against the petitioner upon the filing of the petition for custody or visitation and upon the respondent upon service of a copy of the petition.

(e) A custody proceeding between parents shall be determined in accordance with §§ 722, 729 and Chapter 7A of this title, whichever shall apply.

(59 Del. Laws, c. 569, § 4; 66 Del. Laws, c. 312, § 1; 67 Del. Laws, c. 236, § 1; 69 Del. Laws, c. 309, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 43, § 4; 84 Del. Laws, c. 42, § 1.)

§ 722. Best interests of child.

(a) The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:

(1) The wishes of the child's parent or parents as to such child's custody and residential arrangements;

(2) The wishes of the child as to such child's custodian or custodians and residential arrangements;

(3) The interaction and interrelationship of the child with such child's parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;

(4) The child's adjustment to such child's home, school and community;

(5) The mental and physical health of all individuals involved;

(6) Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;

(7) Evidence of domestic violence as provided for in Chapter 7A of this title; and

(8) The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense.

(b) The Court shall not presume that a parent, because of such parent's sex, is better qualified than the other parent to act as a joint or sole legal custodian for a child or as the child's primary residential parent, nor shall it consider conduct of a proposed sole or joint custodian or primary residential parent that does not affect such parent's relationship with the child.

(59 Del. Laws, c. 569, § 4; 67 Del. Laws, c. 236, §§ 2, 3; 69 Del. Laws, c. 309, § 3; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 311, § 1; 84 Del. Laws, c. 42, § 1.)

§ 723. Temporary orders.

(a) A party to a custody or visitation proceeding may move for a temporary custody or visitation order. An application for temporary custody or visitation shall be accompanied by an affidavit setting forth the factual basis for the motion or application with particularity. The Court may issue a temporary custody or visitation order without requiring notice to the other party and without a hearing only if it finds on the basis of the affidavit or other evidence that irreparable harm may result to the minor child if such an order is not issued without notice to the other interested parties or any opportunity by them to be heard. In the event such an order is entered, a copy of the order shall be served upon all other interested parties as soon as practicable and they shall have an opportunity to be heard in opposition to the application as soon as practicable.

(b) If a custody and/or visitation proceeding commenced in the absence of a petition for divorce or annulment is dismissed, any temporary custody or visitation order shall be vacated.

(59 Del. Laws, c. 569, § 4; 67 Del. Laws, c. 236, § 4.)

§ 724. Interviews.

(a) The Court may interview the child in chambers to ascertain the child's wishes as to the child's custodian and may permit counsel to be present at the interview. The Court shall, at the request of a party, cause a record of the interview to be made and it shall be made part of the record in the case.

(b) The Court may seek the advice of professional personnel whether or not they are employed on a regular basis by the Court. The advice given may be in writing and shall for good cause shown be made available by the Court to counsel of record, parties and other expert witnesses upon request, but shall otherwise be considered confidential and shall be sealed and shall not be open to inspection, except by order of the Court. Counsel may call for cross-examination any professional personnel consulted by the Court.

(c) The Court may, sua sponte or upon request of any party including the child, interview a child on the record regarding any factual statements pertaining to the matter before the Court. Any party may request to submit questions to the judicial officer to be asked of the child. Where all parties are represented, the Court may upon request permit counsel for the parties to observe the interview if, in the opinion of the Court, their presence will not adversely affect the welfare or well-being of the child. The Court may permit any person to be present during the interview whose presence, in the opinion of the Court, contributes to the welfare or well-being of the child. All parties to the matter shall be entitled to review the recorded interview in its entirety. Upon request, the Court may provide an oral or written summary of the interview to the parties.

(d) An out-of-court statement made by a child may be admitted into evidence by the Court if reasonable notice of the intention to offer the out-of-court statement is given to all parties and:

(1) The child is available to be interviewed pursuant to subsection (c) of this section, and the statement touches upon the matter before the Court; or

(2) The child's out-of-court statement is shown to possess particularized guarantees of trustworthiness, and the child is found by the Court to be unavailable to be interviewed on any of these grounds:

a. The child's death;

b. The child's absence from the jurisdiction;

c. The child's total failure of memory;

d. The child's refusal to comply with subsection (c) of this section;

e. The child's physical or mental disability;

f. The existence of a privilege involving the child;

g. The child's incompetence, including the child's inability to communicate about the matter before the Court due to fear or a similar reason; or

h. Substantial likelihood that the child would suffer emotional trauma from being interviewed as set forth in subsection (c) of this section.

(e) The Court shall support with findings on the record any rulings pertaining to the child's unavailability and the trustworthiness of the out-of-court statement admitted pursuant to subsection (d) of this section. In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (d)(2) of this section, the Court may consider, but is not limited to considering, the following factors:

(1) The child's personal knowledge of the event;

(2) The age and maturity of the child;

(3) Certainty that the statement was made, including the credibility of the person testifying about the statement;

(4) Any apparent motive the child may have to falsify or distort the event, including bias, corruption or coercion;

(5) The timing of the child's statement;

(6) Whether more than 1 person heard the statement;

(7) Whether the child was suffering pain or distress when making the statement;

(8) Whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;

(9) Whether the statement has a "ring of verity," has internal consistency or coherence and uses terminology appropriate to the child's age;

(10) Whether the statement is spontaneous or directly responsive to questions;

(11) Whether the statement is suggestive due to improperly leading questions.

(f) This section shall in no way limit the admissibility of any statement under other Court rules or statutes governing admissibility. This section shall apply to all proceedings governed by this title as well as to all proceedings set forth in subchapter II of Chapter 9 of Title 16.

(59 Del. Laws, c. 569, § 4; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 303, § 1; 77 Del. Laws, c. 43, § 5; 84 Del. Laws, c. 42, § 1.)

§ 725. Investigations and reports.

Repealed by 74 Del. Laws, c. 200, § 1, effective Jan. 28, 2004.

§ 726. Hearings.

(a) The Court without a jury shall determine questions of law and fact. All hearings and trials shall be conducted in private but the Court may admit any person who has a direct and legitimate interest in the particular case or a legitimate educational or research interest in the work of the Court.

(b) If the Court finds it necessary to protect the child's welfare, that the record of any interview, report, investigation or testimony in a custody proceeding be kept secret, the Court shall make an appropriate order sealing the record.

(c) The Court may tax as costs the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the Court deems necessary to determine the best interests of the child.

(59 Del. Laws, c. 569, § 4.)

§ 727. Custody.

(a) Whether the parents have joint legal custody or 1 parent has sole legal custody of a child, each parent has the right to receive, on request, from the other parent, whenever practicable in advance, all material information concerning the child's progress in school, medical treatment, significant developments in the child's life, and school activities and conferences, special religious events and other activities in which parents may wish to participate and each parent and child has a right to reasonable access to the other by telephone or mail. The Court shall not restrict the rights of a child or a parent under this subsection unless it finds, after a hearing, that the exercise of such rights would endanger a child's physical health or significantly impair such child's emotional development.

(b) Any custody order entered by the Court may include the following provisions:

(1) Granting temporary joint or sole custody for a period of time not to exceed 6 months in duration to give the parents the opportunity of demonstrating to the satisfaction of the Court their ability and willingness to cooperate with the custodial arrangement ordered.

Following a timely review of this temporary order by the Court either at the end of this temporary period or sooner upon the application of any party to the proceeding, the Court shall have the authority to continue or modify the temporary order on a permanent basis.

(2) Counseling of the parents, and their child if appropriate, by a public or private agency approved by the Court to help the parents develop the necessary skills to deal effectively with the major as well as daily decisions involving their child under the custodial arrangement ordered, to continue until such time as the Court is advised in writing by the agency that such counseling is no longer required. Counseling expenses may be assessed by the Court as a cost of the proceeding.

(c) Any custody order entered by the Court shall include a contact schedule by the child with both parents which shall control absent parental modification by written agreement.

(d) Any custody order entered when 1 or both parents is a member of the armed forces, including the National Guard, and is being deployed, shall be an interim order, modifiable upon the return of the Armed Forces member to the United States or termination of service.

(e) A police officer may enter private property to take physical custody of a child to enforce the Court's custody order when such order requests the assistance of a police officer.

(67 Del. Laws, c. 236, § 5; 76 Del. Laws, c. 331, § 1; 83 Del. Laws, c. 461, § 2; 84 Del. Laws, c. 42, § 1.)

§ 728. Residence; visitation; sanctions.

(a) The Court shall determine, whether the parents have joint legal custody of the child or 1 of them has sole legal custody of the child, with which parent the child shall primarily reside and a schedule of visitation with the other parent, consistent with the child's best interests and maturity, which is designed to permit and encourage the child to have frequent and meaningful contact with both parents unless the Court finds, after a hearing, that contact of the child with 1 parent would endanger the child's physical health or significantly impair such child's emotional development. The Court shall specifically state in any order denying or restricting a parent's access to a child the facts and conclusions in support of such a denial or restriction.

(b) The Court shall encourage all parents and other persons to foster the exercise of a parent's joint or sole custodial authority and the maintenance of frequent and meaningful contact, in person, by mail and by telephone, between parents and children unless an order has been entered pursuant to subsection (a) of this section denying or restricting such contact. If the Court finds, after a hearing, that a parent has violated, interfered with, impaired or impeded the rights of a parent or a child with respect to the exercise of joint or sole custodial authority, residence, visitation or other contact with the child, the Court shall order such person to pay the costs and reasonable counsel fees of the parent applying for relief under this section. The Court shall also impose 1 or more of the following remedies or sanctions:

(1) Extra visitation with the child to enable the child to make up any wrongfully denied visitation with a parent;

(2) A temporary transfer of custody or primary residence or both of the child to a parent applying for relief under this section for up to 30 days without regard to the factors set forth in § 729 of this title;

(3) A surcharge to be assessed against the parent with rights of visitation with the child or children for such parent's unilateral failure, without just cause and/or without sufficient notice, to comply with the visitation schedule. Failure to comply consists of more than minimal violations, such as, but not limited to, slight alterations in the times for visitation. The amount of the surcharge shall be up to 10 percent of the visiting parent's monthly child support obligation for each violation and shall be payable to the parent with whom the child resides or children reside;

(4) A fine in the discretion of the Court; or

(5) A term of imprisonment if a person is found to be in contempt of prior orders of the Court.

In addition, the Court may impose such other sanctions or remedies as the Court deems just and proper to ensure the maintenance in the future of frequent and meaningful contact between parent and child and participation by both parents in the child's upbringing if the parents have joint legal custody.

(c) A parent of a child who believes it to be in the best interests of a child for the custodial authority, visitation or communication between a parent and a child as established by a prior Court order or written agreement of the parties to be modified may apply to the Court for such modification, and the Court may grant such an application if it finds after application of the standards set forth in subsection (a) of this section that the best interests of the child would be served by ordering such a modification. The filing of an application under this subsection by any person shall not be a defense in an action brought against any person under subsection (b) of this section unless the Court has entered an appropriate order allowing such conduct prior to the occurrence of the conduct complained of in the action brought under subsection (b) of this section.

(d) Before entering an order for visitation to be conducted in a correctional facility the Court shall in addition to other relevant factors consider the following:

(1) The parent seeking visitation in a correctional facility had a substantial and positive relationship with the child prior to incarceration;

(2) The nature of the offense for which the parent seeking visitation is incarcerated;

(3) Whether the victim of the offense is the child, a sibling of the child, stepsibling, half sibling, parent, stepparent, grandparent, guardian or custodian of the child; and,

(4) Whether the child seeks a relationship with the incarcerated parent.

(e) The Court shall not enter an order requiring visitation in a correctional facility if the person incarcerated is a sex offender unless the requirements of subchapter II of Chapter 7A of this title are met.

(f) The Court shall not enter an order requiring visitation in a correctional facility if the person incarcerated has been adjudicated of committing murder in the first or second degrees.

(67 Del. Laws, c. 236, § 6; 69 Del. Laws, c. 140, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 285, § 27; 75 Del. Laws, c. 388, § 1; 76 Del. Laws, c. 174, §§ 1, 7; 77 Del. Laws, c. 43, §§ 6, 7; 84 Del. Laws, c. 42, § 1.)

§ 729. Modification of prior orders.

(a) An order concerning visitation may be modified at any time if the best interests of the child would be served thereby in accordance with the standards set forth in § 728(a) of this title.

(b) An order entered by the Court by consent of all parties, an interim order or a written agreement between the parties concerning the legal custody of a child or such child's residence may be modified at any time by the Court in accordance with the standards set forth in § 722 of this title.

(c) An order entered by the Court after a full hearing on the merits concerning the legal custody of a child or such child's primary residence may be modified only as follows:

(1) If the application for modification is filed within 2 years after the Court's most recent order concerning these matters, the Court shall not modify its prior order unless it finds, after a hearing, that continuing enforcement of the prior order may endanger the child's physical health or significantly impair such child's emotional development.

(2) If the application for modification is filed more than 2 years after the Court's most recent order concerning these matters, the Court may modify its prior order after considering:

a. Whether any harm is likely to be caused to the child by a modification of its prior order, and, if so, whether that harm is likely to be outweighed by the advantages, if any, to the child of such a modification;

b. The compliance of each parent with prior orders of the Court concerning custody and visitation and compliance with each such parent's duties and responsibilities under § 727 of this title including whether either parent has been subjected to sanctions by the Court under § 728(b) of this title since the prior order was entered; and

c. The factors set forth in § 722 of this title.

(59 Del. Laws, c. 569, § 4; 67 Del. Laws, c. 236, § 7; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 730. Petition to modify custody.

A party seeking to modify a custody order shall file a verified petition setting forth facts supporting the requested modification.

(59 Del. Laws, c. 569, § 4; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 378, § 1.)

§ 731. Attorneys' fees.

The Court from time to time, after considering the legal and factual basis for the action, the results obtained, the financial resources of the parties, and such other factors as the Court deems just and equitable, may order a party to pay all or part of the cost to another party of maintaining or defending any proceedings under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of such proceedings. The Court may order that the amount be paid directly to the attorney, who may enforce the order in such attorney's own name.

(59 Del. Laws, c. 569, § 4; 67 Del. Laws, c. 236, § 8; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 732. Procedural rights.

Each party to a proceeding under this chapter (including the child, if counsel or a guardian ad litem for the child has been appointed by the Court) shall possess all the procedural rights which those parties would have heretofore possessed in any proceeding brought pursuant to this chapter in the Superior Court of this State, including, but not limited to, the following:

(1) Right to institute and retain complete control of the suit;

(2) Right to select counsel; and

(3) Right to appeal to the Supreme Court of this State on the record from interlocutory or final orders, such appeals to be in the form and manner provided by the Rules of the Supreme Court.

(67 Del. Laws, c. 236, § 9.)

§ 733. Stepparent custody in certain circumstances.

Notwithstanding that there is a surviving natural parent, upon the death or disability of the custodial or primary placement parent, the Court, at the request of the stepparent shall continue the placement of the child or children with the stepparent pending a hearing on the merits, provided the child has or children have resided with the stepparent immediately prior to the death or disability of the custodial or primary placement parent. Where the child has or children have so resided with the stepparent the Court shall apply the provisions

of § 722 of this title and may grant permanent custody or primary physical placement to the stepparent. If the Court grants custody or primary placement of the child or children to the stepparent, the stepparent shall have all of the rights and obligations of a parent until such time as the stepparent no longer has custody or primary placement of the child or children.

(70 Del. Laws, c. 146, § 1; 70 Del. Laws, c. 186, § 1.)

§ 734. Relocation.

When in the course of litigation involving custody or visitation, there is a proposed relocation of a child for a period of 60 days or more involving either a move outside the State of Delaware or a move that materially affects the current custodial and residential arrangement or order, the Court must consider the following factors:

(1) The nature, quality, extent of involvement, and duration of the child's relationship with the individual proposing to relocate and with the nonrelocating individual, siblings, and other significant individuals in the child's life.

(2) The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child.

(3) The feasibility of preserving the relationship between the nonrelocating individual and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's preference, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct of the individual seeking the relocation, either to promote or thwart the relationship of the child and the nonrelocating individual;

(6) Whether the relocation of the child will enhance the general quality of life for both the individual seeking the relocation and the child, including financial or emotional benefit or educational opportunity.

(7) The reasons of each individual for seeking or opposing the relocation.

(8) Any other factor affecting the best interest of the child.

(83 Del. Laws, c. 171, § 1.)

Chapter 7A
Child Protection From Domestic Violence and Sex Offenders Act
Subchapter I
Child Protection From Domestic Violence Act

§ 701A. Title.

This subchapter shall be known as and may be cited as the "Child Protection From Domestic Violence Act."

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3.)

§ 702A. Purpose.

The purpose of this subchapter is to protect children from domestic violence and the harm caused by experiencing domestic violence in their homes.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3.)

§ 703A. Definitions.

(a) "Domestic violence" includes but is not limited to physical or sexual abuse or threats of physical or sexual abuse and any other offense against the person committed by 1 parent against the other parent, against any child living in either parent's home, or against any other adult living in the child's home. "Domestic violence" does not include reasonable acts of self-defense by 1 parent for self-protection or in order to protect the child from abuse or threats of abuse by the other parent or other adult living in the child's home.

(b) "Perpetrator of domestic violence" means any individual who has been convicted of committing any of the following criminal offenses in the State, or any comparable offense in another jurisdiction, against the child at issue in a custody or visitation proceeding, against the other parent of the child, or against any other adult or minor child living in the home:

(1) Any felony level offense.

(2) Assault in the third degree.

(3) Reckless endangering in the second degree.

(4) Reckless burning or exploding.

(5) Unlawful imprisonment in the second degree.

(6) Unlawful sexual contact in the third degree.

(7) Criminal contempt of Family Court protective order based on an assault or other physical abuse, threat of assault or other physical abuse or any other actions placing the petitioner in immediate risk or fear of bodily harm.

(8) Child abuse in the fourth degree.

(69 Del. Laws, c. 309, § 4; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 174, § 3; 83 Del. Laws, c. 113, § 1; 84 Del. Laws, c. 126, § 12.)

§ 704A. Fleeing from domestic violence.

For purposes of this title, it shall not be considered evidence of abandonment in any child custody or visitation proceeding if a parent flees from domestic violence and temporarily leaves the child behind, as long as that child is not left in immediate danger of serious physical injury.

(69 Del. Laws, c. 309, § 4; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 174, § 3.)

§ 705A. Rebuttable presumption against custody or residence of minor child to perpetrator of domestic violence.

(a) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no perpetrator of domestic violence shall be awarded sole or joint custody of any child.

(b) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no child shall primarily reside with a perpetrator of domestic violence.

(c) The above presumptions shall be overcome if there have been no further acts of domestic violence and the perpetrator of domestic violence has:

(1) Successfully completed a program of evaluation and counseling designed specifically for perpetrators of family violence and conducted by a public or private agency or a certified mental health professional; and

(2) Successfully completed a program of alcohol or drug abuse counseling if the Court determines that such counseling is appropriate; and

(3) Demonstrated that giving custodial or residential responsibilities to the perpetrator of domestic violence is in the best interests of the child.

The presumption may otherwise be overcome only if a judicial officer finds extraordinary circumstances that warrant the rejection of the presumption, such as evidence demonstrating that there exists no significant risk of future violence against any adult or minor child living in the home or any other family member, including any ex-spouse.

(d) In those cases in which both parents are perpetrators of domestic violence, the case shall be referred to the Division of Family Services of the Department of Services for Children, Youth and their Families for investigation and presentation of findings. Upon consideration of such presentation, and all other relevant evidence, including but not limited to, evidence about the history of abuse between the parents and evidence regarding whether 1 parent has been the primary aggressor in the household, the court shall decide custody and residence pursuant to the best interests of the child.

(e) Notwithstanding other provisions of this title, including the rebuttable presumption set forth in this section, where a court has determined by at least a preponderance of the evidence, that the perpetrator of domestic violence has subjected any child to death or near death injuries, as that term is defined in § 301 of Title 31, the court shall not award joint or sole custody to the perpetrator of domestic violence, nor permit the perpetrator of domestic violence to exercise custodial or residential responsibilities, nor permit any visitation between the perpetrator of domestic violence and any child, without considering expert testimony from a certified mental health professional that such a custodial, residential or visitation arrangement is in the child's best interests. If such a custodial, residential or visitation arrangement is determined to be in the child's best interests, the court shall then apply the remaining factors set forth in subsection (c) of this section.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, §§ 3, 4.)

§ 706A. Evidence of domestic violence.

(a) Any evidence of a past or present act of domestic violence, whether or not committed in the presence of the child, is a relevant factor that must be considered by the court in determining the legal custody and residential arrangements in accordance with the best interests of the child.

(b) If sole or joint custody is awarded to, or if primary residence of a child is placed with, a party notwithstanding evidence that the party has committed acts of domestic violence against the other parent, against the child or against any other person living in the child's household, the court shall make specific written findings in support of the decision to award custody or primary residence to that party.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3.)

§ 707A. Counseling.

If the court awards sole or joint custody or primary residence to a parent who has a history of committing acts of domestic violence, that parent shall be ordered to complete a program of evaluation and counseling designed specifically for perpetrators of family violence and conducted by a public or private agency or a certified mental health professional. That parent may also be ordered to attend alcohol or drug abuse treatment and any other counseling that may be appropriate.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3.)

§ 708A. Visitation.

Notwithstanding the other provisions of this title, in all cases in which the court finds by a preponderance of the evidence that 1 of the child's parents has committed an act of domestic violence against the child, against the other parent or against any other person living in the child's household the court shall determine a schedule, location and conditions for visitation that best protects the child and the victim of domestic violence from further violence.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3.)

§ 709A. Modification of orders.

Notwithstanding other provisions of this title:

(1) An order concerning visitation may be modified at any time if necessary to protect the safety of the child or the child's parent in light of acts of domestic violence that have occurred since the entry of the most recent visitation order.

(2) A custody order may be modified at any time if a parent who has sole or joint custody has committed acts of domestic violence since the entry of the most recent custody order.

(3) In determining whether a custody award should be modified, the court shall not consider noncompliance with an existing custody or visitation order or noncompliance with the duties and responsibilities under § 727 of this title if such noncompliance was caused by the parent's attempt at self-protection or protection of the child from acts of domestic violence committed since the entry of the court's most recent custody or visitation order.

(69 Del. Laws, c. 309, § 4; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 174, § 3.)

§ 710A. Sexual abuse.

Repealed by 76 Del. Laws, c. 174, § 5, effective July 31, 2007.

§ 711A. Ordered mediation prohibited.

Notwithstanding any other provision of law to the contrary, Family Court mediation conferences shall be prohibited in any child custody or visitation or support proceeding in which 1 of the parties has been found by a court, whether in that proceeding or in some other proceeding, to have committed an act of domestic violence against the other party or if either party has been ordered to stay away or have no contact with the other party, unless a victim of domestic violence who is represented by counsel requests such mediation.

(69 Del. Laws, c. 309, § 4; 76 Del. Laws, c. 174, § 3; 79 Del. Laws, c. 257, § 1.)

Subchapter II

Child Protection From Sex Offenders Act

§ 721A. Title.

This subchapter shall be known as and may be cited as the "Child Protection from Sex Offenders Act."

(76 Del. Laws, c. 174, § 6.)

§ 722A. Purpose.

The purpose of this subchapter is to protect children from sex offenders by presuming that it is not in the best interests of a child to be placed in a custodial, residential or unsupervised visitation arrangement with a sex offender, regardless of whether the sex offender's victim was an adult or a child.

Nothing in this subchapter shall preclude the court from denying custody, residency or visitation under other appropriate circumstances, including denying same under an ex parte or other emergency order.

(76 Del. Laws, c. 174, § 6.)

§ 723A. Definitions.

For the purposes of this subchapter, a "sex offender" refers to any person designated by the courts of this State as a Risk Assessment Tier II or III sex offender under § 4121 of Title 11, or a person designated and treated as such by a court or a jurisdiction outside of Delaware, regardless of whether the sex offender's victim was an adult or a child.

(76 Del. Laws, c. 174, § 6.)

§ 724A. Rebuttable presumption against unsupervised visitation, custody or residence of a child to a sex offender.

(a) Notwithstanding other provisions of this title, there shall be a rebuttable presumption that no sex offender shall be awarded sole or joint custody of any child, that no child shall primarily reside with a sex offender, and that no sex offender shall have unsupervised visitation with a child.

(b) The above presumptions may be overcome if:

(1) There is not a criminal sentencing order prohibiting same; and

(2) There have been no further sexual offenses or criminal acts of violence; and

(3) The sex offender is in compliance with the terms of probation, if applicable; and

(4) The sex offender has successfully completed an intensive program of evaluation and counseling designed specifically for sex offenders and conducted by a public or private agency or a certified mental health professional, and as a result of such, does not pose a risk to children; and

(5) The sex offender has successfully completed a program of substance abuse counseling if the court determines such counseling is appropriate; and

(6) The best interests of the child would be served by giving residential or custodial responsibilities for the child or visitation with the child to the sex offender.

(c) Notwithstanding other provisions of this title, where the child who is the subject of the petition is also the victim of the sex offender, the court shall not award joint or sole custody to the sex offender, nor permit the sex offender to exercise custodial or residential responsibilities, nor permit any visitation, without considering expert testimony from a certified mental health professional that such a custodial, residential or visitation arrangement is in the child's best interests. If such a custodial, residential or visitation arrangement is determined under this subsection to be in the best interests of the child, the court shall then apply the remaining factors set forth in subsection (b) of this section.

(d) In those cases in which more than 1 party is a sex offender, or where the party currently having custodial rights has permitted the sex offender to exercise residential or custodial responsibilities for the child or have visitation with the child, in violation of a criminal or civil court order, the case shall be referred by the court to the Division of Family Services of the Department of Services for Children, Youth and Their Families for investigation as to whether the child is abused, dependent or neglected as a result of these circumstances.

(e) If a child is conceived and subsequently born as the result of an act of rape of any degree or unlawful sexual intercourse, in either the first or second degree with the mother, the biological father of said child shall not be permitted visitation privileges under this section. This subsection shall apply only where the father pleads guilty or nolo contender, or is convicted of any degree of rape or unlawful sexual intercourse, in either the first or second degree.

(76 Del. Laws, c. 174, § 6; 70 Del. Laws, c. 186, § 1.)

§ 725A. Findings.

Should the court grant custody, residential responsibilities or visitation to a sex offender under this subchapter, the court shall make specific written findings in support of its decision, including any limitations or requirements for further counseling, services or other safeguards necessary to ensure the safety and best interests of the child continue to be served.

(76 Del. Laws, c. 174, § 6.)

§ 726A. Sexual abuse without a criminal conviction.

In the absence of a criminal conviction, if the court finds by a preponderance of the evidence that a parent has sexually abused a child, the court shall prohibit all visitation and contact between that parent and the child, until it considers testimony from a certified mental health professional who is the therapist for the child, as to whether such a custodial, residential or visitation arrangement is in the child's best interests. If a custodial, residential or visitation arrangement is in the child's best interests, in determining same, the court should consider all relevant factors including:

(1) Whether the abusive parent has successfully completed a treatment program of evaluation and counseling that is specifically designed for sexual abusers and is conducted by a public or private agency or a certified mental health professional, and as a result, does not pose a risk to children;

(2) Whether the abusive parent has successfully completed a program of alcohol or drug abuse counseling if the court determines such counseling is appropriate; and

(3) Any testimony by a certified mental health professional who is the therapist for the sexually abusive parent.

(76 Del. Laws, c. 174, § 6.)

§ 727A. Modification of orders.

Notwithstanding other provisions of this title:

(1) An order concerning visitation issued under this subchapter may be modified at any time if it is in the best interests of the child and/or it is necessary to protect the safety of the child.

(2) A custody order under this subchapter may be modified as provided for in § 729 of this title; however, in determining whether a custody award should be modified, the court shall not consider noncompliance with an existing custody or visitation order or noncompliance with the duties and responsibilities under § 727 of this title if such noncompliance was caused by the parent's attempt at protection of the child from sexual abuse since the entry of the court's most recent custody or visitation order.

(76 Del. Laws, c. 174, § 6.)

§ 728A. Ordered mediation prohibited.

Notwithstanding any other provision of law to the contrary, Family Court mediation conferences shall be prohibited in any child custody or visitation proceeding in which 1 of the parties is a sex offender.

(76 Del. Laws, c. 174, § 6.)

Chapter 8
Uniform Parentage Act [Effective until Dec. 6, 2026].
Subchapter I
General Provisions [Effective until Dec. 6, 2026].

§ 8-101. Short Title [Effective until Dec. 6, 2026].

This chapter may be cited as the “Uniform Parentage Act.”

(74 Del. Laws, c. 136, § 1.)

§ 8-102. Definitions [Effective until Dec. 6, 2026].

In this chapter:

(1) “Acknowledged father” means a man who has established a father-child relationship under subchapter III of this chapter.

(2) “Adjudicated father” means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

(3) “Alleged father” means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include:

(i) A presumed father;

(ii) A man whose parental rights have been terminated or declared not to exist; or

(iii) A male donor.

(4) “Assisted reproduction” means a method of causing pregnancy other than sexual intercourse. The term includes, but is not limited to:

(i) Insemination;

(ii) Donation of eggs;

(iii) Donation of embryos;

(iv) In-vitro fertilization and transfer of embryos; and

(v) Intracytoplasmic sperm injection.

(5) “Child” means an individual of any age whose parentage may be determined under this chapter.

(6) “Commence” means to file the initial pleading seeking an adjudication of parentage in the Family Court of the State of Delaware.

(7) “Compensation” means payment of any valuable consideration for services in addition to payment for reasonable medical and ancillary costs.

(8) “Determination of parentage” means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under subchapter III of this chapter or adjudication by the Court.

(9) “Donor” means an individual who produces eggs or sperm, or who provides embryos used for assisted reproduction, whether or not for consideration. The term does not include:

(i) A husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;

(ii) A woman who gives birth to a child by means of assisted reproduction, or

(iii) A parent under subchapter VII of this chapter.

(10) “Embryo transfer” means all medical and laboratory procedures that are necessary to effectuate the transfer of an embryo in the uterine cavity.

(11) “Ethnic or racial group” means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual’s ancestry or that is so identified by other information.

(12) “Gamete” means either a human egg or sperm.

(13) “Genetic testing” means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of 1 or a combination of the following:

(i) Deoxyribonucleic acid; and

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

(14) “Gestational carrier” means a woman who is neither an intended parent nor a donor, who agrees to become pregnant for an intended parent by assisted reproduction with the intention of gestating and delivering the intended parent’s child.

(15) “Gestational carrier agreement” means a written agreement between the gestational carrier, her spouse or partner, if any, and the intended parent, pursuant to which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.

(16) “Gestational carrier arrangement” means the process by which a woman attempts to carry and give birth to a child created through assisted reproduction using the gamete(s) provided by the intended parents which may or may not be genetically related to either of the intended parents, and to which the gestational carrier has made no genetic contribution.

(17) “Health care provider” means a person who is duly licensed to provide health care, including all medical, psychological, or counseling professionals.

(18) “Intended parent” means a person or persons who enters into a gestational carrier agreement with a gestational carrier to become a parent of any resulting child. In the case of a married couple, any reference to an intended parent shall include both spouses for all purposes of this chapter. This term shall include the intended mother(s), intended father(s), or both.

(19) “In vitro fertilization” means all medical and laboratory procedures that are necessary to effectuate the extracorporeal fertilization of egg and sperm.

(20) “Man” means a male individual of any age.

(21) “Married couple” includes 2 people who are parties to a civil union.

(22) “Parent” means an individual who has established a parent-child relationship under § 8-201 of this title.

(23) “Parent-child relationship” means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

(24) “Paternity index” means the likelihood of paternity calculated by computing the ratio between:

(i) The likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and

(ii) The likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(25) “Physician” means a person licensed to practice medicine in any or all of its branches in Delaware.

(26) “Presumed father” means a man who, by operation of law under § 8-204 of this title, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

(27) “Probability of paternity” means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(28) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(29) “Signatory” means an individual who authenticates a record and is bound by its terms.

(30) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(31) “Support-enforcement agency” means a public official or agency authorized to seek:

(i) Enforcement of support orders or laws relating to the duty of support;

(ii) Establishment or modification of child support;

(iii) Determination of parentage; or

(iv) Location of child-support obligors and their income and assets.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 1.)

§ 8-103. Scope of chapter; choice of law [Effective until Dec. 6, 2026].

(a) This chapter applies to determinations of parentage in this State.

(b) The court shall apply the law of this State to adjudicate the parent-child relationship. The applicable law does not depend on:

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

(2) The past or present residence of the child.

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

(d) This chapter authorizes an agreement between a woman and another person, an unmarried couple, or a married couple in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction, and which provides that the person or married or unmarried couple become the parents of the child. If a birth results under such an agreement and the agreement is unenforceable under the law of this State, the parent-child relationship is determined as provided in subchapter II of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 2.)

§ 8-104. Court of this State [Effective until Dec. 6, 2026].

The Family Court of the State of Delaware is authorized to adjudicate parentage under this chapter.

(74 Del. Laws, c. 136, § 1.)

§ 8-105. Protection of participants [Effective until Dec. 6, 2026].

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial under this chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court otherwise directs for good cause.

(b) Except as provided in § 8-633 of this title, all papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the appropriate public agency or elsewhere, are subject to inspection by persons other than the parties only upon consent of the court, for good cause.

(74 Del. Laws, c. 136, § 1.)

§ 8-106. Determination of maternity [Effective until Dec. 6, 2026].

Provisions of this chapter relating to determination of paternity apply to determinations of maternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

Subchapter II

Parent-Child Relationship [Effective until Dec. 6, 2026].

§ 8-201. Establishment of parent-child relationship [Effective until Dec. 6, 2026].

(a) The mother-child relationship is established between a woman and a child by:

(1) The woman's having given birth to the child, unless she is not the intended parent pursuant to a gestational carrier arrangement;

(2) An adjudication of the woman's maternity;

(3) Adoption of the child by the woman;

(4) A determination by the court that the woman is a de facto parent of the child; or

(5) The woman's intending to be the mother of a child born pursuant to a gestational carrier arrangement; or

(6) The woman's having consented to assisted reproduction by another woman under subchapter VII of this chapter which resulted in the birth of the child.

(b) The father-child relationship is established between a man and a child by:

(1) An unrebutted presumption of the man's paternity of the child under § 8-204 of this title;

(2) An effective acknowledgment of paternity by the man under subchapter III of this chapter, unless the acknowledgment has been rescinded or successfully challenged;

(3) An adjudication of the man's paternity;

(4) Adoption of the child by the man;

(5) The man's having consented to assisted reproduction by a woman under subchapter VII of this chapter which resulted in the birth of the child; or

(6) A determination by the court that the man is a de facto parent of the child

(c) De facto parent status is established if the Family Court determines that the de facto parent:

(1) Has had the support and consent of the child's parent or parents who fostered the formation and establishment of a parent-like relationship between the child and the de facto parent;

(2) Has exercised parental responsibility for the child as that term is defined in § 1101 of this title; and

(3) Has acted in a parental role for a length of time sufficient to have established a bonded and dependent relationship with the child that is parental in nature.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 97, §§ 1-3; 79 Del. Laws, c. 88, § 3.)

§ 8-202. No discrimination based on marital status [Effective until Dec. 6, 2026].

A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.

(74 Del. Laws, c. 136, § 1.)

§ 8-203. Consequences of establishment of parentage [Effective until Dec. 6, 2026].

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

(74 Del. Laws, c. 136, § 1.)

§ 8-204. Presumption of paternity in context of marriage [Effective until Dec. 6, 2026].

(a) A man is presumed to be the father of a child if:

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

(2) He and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce;

(3) Before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity or divorce;

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

(i) The assertion is in a record filed with the Office of Vital Statistics;

(ii) He agreed to be and is named as the child's father on the child's birth certificate; or

(iii) He promised in a record to support the child as his own; or

(5) For the first 2 years of the child's life, he resided in the same household with the child and openly held out the child as his own.

(b) A presumption of paternity established under this section may be rebutted only by an adjudication under subchapter VI of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

Subchapter III

Voluntary Acknowledgement of Paternity [Effective until Dec. 6, 2026].

§ 8-301. Acknowledgement of paternity [Effective until Dec. 6, 2026].

The mother of a child and a man claiming to be the genetic father of the child may sign an acknowledgment of paternity with intent to establish the man's paternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-302. Execution of acknowledgment of paternity [Effective until Dec. 6, 2026].

(a) An acknowledgment of paternity must:

(1) Be in a record;

(2) Be signed, or otherwise authenticated, under penalty of perjury by the mother and by the man seeking to establish the man's own paternity;

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

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

(ii) Does not have another acknowledged or adjudicated father.

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

(5) State that the signatories understand that the acknowledgement is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgement is permitted only under limited circumstances and is barred after 2 years.

(b) An acknowledgment of paternity is void if it:

(1) States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the Office of Vital Statistics;

(2) States that another man is an acknowledged or adjudicated father;

(3) Falsely denies the existence of a presumed, acknowledged or adjudicated father of the child; or

(4) Is signed by the mother or a man seeking to establish the man's own paternity who is a minor at the time of signing the acknowledgment of paternity.

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 516, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 233, § 18.)

§ 8-303. Denial of paternity [Effective until Dec. 6, 2026].

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

(1) An acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to § 8-305 of this title;

(2) The denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and

(3) The presumed father has not previously:

(i) Acknowledged paternity, unless the previous acknowledgment has been rescinded pursuant to § 8-307 of this title or successfully challenged pursuant to § 8-308 of this title; or

(ii) Been adjudicated to be the father of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 8-304. Rules for acknowledgement and denial of paternity [Effective until Dec. 6, 2026].

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

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

(c) Subject to subsection (a) of this section, an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the Office of Vital Statistics, whichever occurs later.

(d) [Repealed.]

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 516, § 1.)

§ 8-305. Effect of acknowledgement or denial of paternity [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in §§ 8-307 and 8-308 of this title, a valid acknowledgment of paternity filed with the Office of Vital Statistics is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(b) Except as otherwise provided in §§ 8-307 and 8-308 of this title, a valid denial of paternity by a presumed father filed with the Office of Vital Statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-306. No filing fee [Effective until Dec. 6, 2026].

The Office of Vital Statistics may not charge for filing an acknowledgment of paternity or denial of paternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-307. Proceeding for rescission [Effective until Dec. 6, 2026].

A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

(1) Sixty days after the effective date of the acknowledgment or denial, as provided in § 8-304; or

(2) The date of the first hearing, in a proceeding to which the signatory is a party, before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-308. Challenge after expiration of period for rescission [Effective until Dec. 6, 2026].

(a) After the period for rescission under § 8-307 of this title has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

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

(2) Within 2 years after the acknowledgment or denial is filed with the Office of Vital Statistics.

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-309. Procedure for rescission or challenge [Effective until Dec. 6, 2026].

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

(b) For the purpose of rescission of, or challenge to, an acknowledgment of paternity or denial of paternity, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document with the Office of Vital Statistics.

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

(d) A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under subchapter VI of this chapter.

(e) At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court shall order the Office of Vital Statistics to amend the birth record of the child, if appropriate.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-310. Ratification barred [Effective until Dec. 6, 2026].

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-311. Full faith and credit [Effective until Dec. 6, 2026].

A court of this State shall give full faith and credit to an acknowledgment of paternity or denial of paternity effective in another state if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-312. Forms for acknowledgement and denial of paternity [Effective until Dec. 6, 2026].

(a) To facilitate compliance with this subchapter, the Division of Child Support Services shall prescribe forms for the acknowledgment of paternity and the denial of paternity.

(b) A valid acknowledgment of paternity or denial of paternity is not affected by a later modification of the prescribed form.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 14.)

§ 8-313. Release of information [Effective until Dec. 6, 2026].

The Division of Child Support Services may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to courts and agencies authorized by other law of this State or another state to receive the information of this or another state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 15.)

§ 8-314. Adoption of rules [Effective until Dec. 6, 2026].

The Division of Child Support Services may adopt rules to implement this subchapter.

(74 Del. Laws, c. 136, § 1; 80 Del. Laws, c. 234, § 16.)

Subchapter IV

Registry of Paternity [Effective until Dec. 6, 2026].

Part 1

General Provisions [Effective until Dec. 6, 2026].

§ 8-401. Establishment of registry [Effective until Dec. 6, 2026].

A registry of paternity is established in the Office of Vital Statistics.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-402. Registration for notification [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of § 8-405 of this title, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered must register in the registry of paternity before the birth of the child or within 30 days after the birth of the child.

(b) A man is not required to register if:

(1) A father-child relationship between the man and the child has been established under this chapter or other law; or

(2) The man commences a proceeding to adjudicate his paternity before the court has terminated his parental rights.

(c) A registrant shall promptly notify the registry in a record of any change in the information registered. The Office of Vital Statistics shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-403. Notice of proceeding [Effective until Dec. 6, 2026].

Notice of a proceeding for the adoption of, or termination of parental rights regarding, a child must be given to a registrant who has timely registered. Notice must be given in a manner prescribed for service of process in a civil action.

(74 Del. Laws, c. 136, § 1.)

§ 8-404. Termination of parental rights; child under 1 year of age [Effective until Dec. 6, 2026].

The parental rights of a man who may be the father of a child may be terminated without notice if:

(1) The child has not attained 1 year of age at the time of the termination of parental rights;

(2) The man did not register timely with the Office of Vital Statistics; and

(3) The man is not exempt from registration under § 8-402 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-405. Termination of parental rights; child at least 1 year of age [Effective until Dec. 6, 2026].

(a) If a child has attained 1 year of age, notice of a proceeding for adoption of, or termination of parental rights regarding the child must be given to every alleged father of the child, whether or not he has registered with the Office of Vital Statistics.

(b) Notice must be given in a manner prescribed for service of process in a civil action.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

Part 2

Operation of Registry [Effective until Dec. 6, 2026].

§ 8-411. Required form [Effective until Dec. 6, 2026].

The Office of Vital Statistics shall prepare a form for registering with the agency. The form must require the signature of the registrant. The form must state that the form is signed under penalty of perjury. The form must also state that:

(1) A timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights;

(2) A timely registration does not commence a proceeding to establish paternity;

(3) The information disclosed on the form may be used against the registrant to establish paternity;

(4) Services to assist in establishing paternity are available to the registrant through the support-enforcement agency;

(5) The registrant should also register in another State if conception or birth of the child occurred in the other State;

(6) Information on registries of other States is available from the Office of Vital Statistics and the support-enforcement agency; and

(7) Procedures exist to rescind the registration of a claim of paternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-412. Furnishing of information; confidentiality [Effective until Dec. 6, 2026].

(a) The Office of Vital Statistics need not seek to locate the mother of a child who is the subject of a registration, but the Office of Vital Statistics shall send a copy of the notice of registration to a mother if she has provided an address.

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

(1) A court or a person designated by the court;

(2) The mother of the child who is the subject of the registration;

(3) An agency authorized by other law to receive the information;

(4) A licensed child-placing agency;

(5) A support-enforcement agency;

(6) A party or the party's attorney of record in a proceeding under this chapter or in a proceeding for adoption of, or for termination of parental rights regarding, a child who is the subject of the registration; and

(7) The registry of paternity in another state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-413. Rescission of registration [Effective until Dec. 6, 2026].

A registrant may rescind registration at any time by sending to the registry a rescission in a record signed or otherwise authenticated by the registrant, and witnessed or notarized.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 8-414. Untimely registration [Effective until Dec. 6, 2026].

If a man registers more than 30 days after the birth of the child, the Office of Vital Statistics shall notify the registrant that on its face his registration was not filed timely.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-415. Fees for registry [Effective until Dec. 6, 2026].

(a) A fee may not be charged for filing a registration or a rescission of registration.

(b) Except as otherwise provided in subsection (c) of this section, the Office of Vital Statistics may charge a reasonable fee for making a search of the registry and for furnishing a certificate.

(c) A support-enforcement agency and an agency of the State of Delaware are not required to pay a fee authorized by subsection (b) of this section.

(74 Del. Laws, c. 136, § 1.)

Part 3

Search of Registries [Effective until Dec. 6, 2026].

§ 8-421. Search of appropriate registry [Effective until Dec. 6, 2026].

(a) If a father-child relationship has not been established under this chapter for a child under 1 year of age, a petitioner for adoption of, or termination of parental rights regarding, the child must obtain a certificate of search of the registry of paternity.

(b) If a petitioner for adoption of, or termination of parental rights regarding, a child has reason to believe that the conception or birth of the child may have occurred in another state, the petitioner must also obtain a certificate of search from the registry of paternity, if any, in that state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-422. Certificate of search registry [Effective until Dec. 6, 2026].

(a) The Office of Vital Statistics shall furnish to the requester a certificate of search of the registry on request of an individual, court or agency identified in § 8-412 of this title.

(b) A certificate provided by the Office of Vital Statistics must be signed on behalf of the Office and State that:

(1) A search has been made of the registry; and

(2) A registration containing the information required to identify the registrant:

(i) Has been found and is attached to the certificate of search; or

(ii) Has not been found.

(c) A petitioner must file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

(74 Del. Laws, c. 136, § 1.)

§ 8-423. Admissibility of registered information [Effective until Dec. 6, 2026].

A certificate of search of the registry of paternity in this or another state is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

Subchapter V

Genetic Testing [Effective until Dec. 6, 2026].

§ 8-501. Scope of article [Effective until Dec. 6, 2026].

This subchapter governs genetic testing of an individual to determine parentage, whether the individual:

(1) Voluntarily submits to testing; or

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

(74 Del. Laws, c. 136, § 1.)

§ 8-502. Order for testing [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in this subchapter and subchapter VII of this chapter, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

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

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

(b) A support-enforcement agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated father.

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

(d) If 2 or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-503. Requirements for genetic testing [Effective until Dec. 6, 2026].

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

(1) The American Association of Blood Banks, or a successor to its functions;

(2) The American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

(3) An accrediting body designated by the federal Secretary of Health and Human Services.

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

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

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

(2) The individual objecting to the testing laboratory's initial choice shall:

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

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

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

(d) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under § 8-505 of this title, an individual who has been tested may be required to submit to additional genetic testing.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-504. Report of genetic testing [Effective until Dec. 6, 2026].

(a) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this subchapter is self-authenticating.

(b) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:

(1) The names and photographs of the individuals whose specimens have been taken;

(2) The names of the individuals who collected the specimens;

(3) The places and dates the specimens were collected;

(4) The names of the individuals who received the specimens in the testing laboratory; and

(5) The dates the specimens were received.

(74 Del. Laws, c. 136, § 1.)

§ 8-505. Genetic testing results; rebuttal [Effective until Dec. 6, 2026].

(a) Under this chapter, a man is rebuttably identified as the father of a child if the genetic testing complies with this subchapter and the results disclose that:

(1) The man has at least a 99 percent probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and

(2) A combined paternity index of at least 100 to 1.

(b) A man identified under subsection (a) of this section as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this subchapter which:

(1) Excludes the man as a genetic father of the child; or

(2) Identifies another man as the possible father of the child.

(c) Except as otherwise provided in § 8-510 of this title, if more than 1 man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic father.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-506. Costs of genetic testing [Effective until Dec. 6, 2026].

(a) Subject to assessment of costs under subchapter VI of this chapter, the cost of initial genetic testing must be advanced:

(1) By a support-enforcement agency in a proceeding in which the support-enforcement agency is providing services;

(2) By the individual who made the request;

(3) As agreed by the parties; or

(4) As ordered by the court.

(b) In cases in which the cost is advanced by the support-enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-507. Additional genetic testing [Effective until Dec. 6, 2026].

The Court or the support-enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under § 8-505 of this title, the court or agency may not order additional testing unless the party provides advance payment for the testing.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-508. Genetic testing when specimen is not available [Effective until Dec. 6, 2026].

(a) Subject to subsection (b) of this section, if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, the court may order the following individuals to submit specimens for genetic testing:

(1) The parents of the man;

(2) Brothers and sisters of the man;

(3) Other children of the man and their mothers; and

(4) Other relatives of the man necessary to complete genetic testing.

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-509. Deceased individual [Effective until Dec. 6, 2026].

For good cause shown, the court may order genetic testing of a deceased individual.

(74 Del. Laws, c. 136, § 1.)

§ 8-510. Identical brothers [Effective until Dec. 6, 2026].

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

(b) If each brother satisfies the requirements as the identified father of the child under § 8-505 of this title without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

Subchapter VI

Proceeding to Adjudicate Parentage [Effective until Dec. 6, 2026].

Part 1

Nature of Proceeding [Effective until Dec. 6, 2026].

§ 8-601. Proceeding authorized [Effective until Dec. 6, 2026].

A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the Family Court Rules of Civil Procedure.

(74 Del. Laws, c. 136, § 1.)

§ 8-602. Standing to maintain proceeding [Effective until Dec. 6, 2026].

Subject to subchapter III of this chapter and §§ 8-607 and 8-609 of this title, a proceeding to adjudicate parentage may be maintained by:

(1) The child;

(2) The mother of the child;

(3) A man whose paternity of the child is to be adjudicated;

(4) The support-enforcement agency;

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

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-603. Parties to proceeding [Effective until Dec. 6, 2026].

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

(1) The mother of the child; and

(2) A man whose paternity of the child is to be adjudicated.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-604. Personal jurisdiction [Effective until Dec. 6, 2026].

(a) An individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.

(b) A court of this State having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in § 610 of this title are fulfilled.

(c) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

(74 Del. Laws, c. 136, § 1.)

§ 8-605. Venue [Effective until Dec. 6, 2026].

Venue for a proceeding to adjudicate parentage is in the county of this State in which:

(1) The child resides or is found;

(2) The respondent resides or is found if the child does not reside in this State; or

(3) A proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-606. Statute of limitations [Effective until Dec. 6, 2026].

(a) Subject to the provisions of subsection (b) of this section and §§ 8-607 and 8-609 of this title, a proceeding under this subchapter may be commenced at any time until the child reaches the age of majority, except as provided in §§ 501(d) and 503 of this title.

(b) A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, adjudicated or adoptive father may be commenced at any time, even after:

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

(2) An earlier proceeding to adjudicate paternity has been dismissed based upon the application of a statute of limitation then in effect.

(c) In a proceeding under subsection (b) of this section, the court may deny a motion for genetic testing based on principles of estoppel as established in § 8-608 of this title.

(d) This section shall not extend the time within which a right of inheritance or a right to succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates, nor to the determination of heirship, or otherwise.

(e) Notwithstanding the 2-year period of limitation recited in this chapter or other affirmative defense, an action for parentage may proceed despite a prior adjudication, acknowledgement or presumption of parentage when shown by clear and convincing evidence to be in the best interest of the particular child, and where the prior adjudication, acknowledgement or presumption of parentage was based on fraud or duress or material mistake of fact.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, § 1.)

§ 8-607. Limitation: Child having presumed father [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section, a proceeding brought by a presumed father, the mother or another individual to adjudicate the parentage of a child having a presumed father must be commenced not later than 2 years after the birth of the child.

(b) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the Court determines that:

(1) a. The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and

b. The presumed father never openly held out the child as his own; or

(2) The presumed father did not commence an action within the limitation period in reliance on the mother's failure to disclose the possibility of any other alleged fathers.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, §§ 2, 7.)

§ 8-608. Authority to deny motion for genetic testing [Effective until Dec. 6, 2026].

(a) In a proceeding to adjudicate the parentage of a child having a presumed father or to challenge the paternity of a child having an acknowledged father, the court may deny a motion seeking an order for genetic testing of the mother, the child and the presumed or acknowledged father if the court determines that:

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

(2) It would be inequitable to disprove the father-child relationship between the child and the presumed or acknowledged father.

(b) In determining whether to deny or to grant a motion seeking an order for genetic testing under this section, the court shall consider the best interest of the child, including the following factors:

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

(2) The length of time during which the presumed or acknowledged father has assumed the role of father of the child;

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

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

(5) The age of the child;

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

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

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

(9) Other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed or acknowledged father or the chance of other harm to the child; and

(10) Whether the child has a medical condition for which an accurate family history is necessary.

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

(d) Denial of a motion seeking an order for genetic testing must be based on clear and convincing evidence.

(e) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed or acknowledged father to be the father of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, §§ 3, 6.)

§ 8-609. Limitation: Child having acknowledged or adjudicated father [Effective until Dec. 6, 2026].

(a) If a child has an acknowledged father, a signatory to the acknowledgment of paternity or denial of paternity may commence a proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of the child only within the time allowed under §§ 8-307 or 8-308 of this title.

(b) If a child has an acknowledged father or an adjudicated father, an individual who is neither a signatory to the acknowledgment of paternity nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than 2 years after the effective date of the acknowledgment or adjudication.

(c) A proceeding under this section is subject to the application of the principles of estoppel established in § 8-608 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-610. Proceedings in which parentage may be determined [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (c) of this section, a determination of parentage may be made in a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, probate or administration of an estate, or other proceeding in which the parentage or nonparentage of the child is an element of the claim for relief or a defense, and such a determination is binding as provided in § 8-637 of this title. In a proceeding to establish child support, the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of § 610 of this title and the final order provides for the support of the child by the man.

(b) Except as otherwise provided in subsection (a) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, probate or administration of an estate, or other appropriate proceeding.

(c) A respondent may not join a proceeding described in subsection (a) of this section with a proceeding to adjudicate parentage brought under Chapter 6 of this title.

(74 Del. Laws, c. 136, § 1.)

§ 8-611. Proceeding before birth [Effective until Dec. 6, 2026].

(a) A proceeding to determine parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child.

(b) But if a child was conceived through assisted reproduction, an order or judgment may be entered before the birth of the resulting child to establish a parent child relationship, as long as enforcement of the order or judgment shall be stayed until the birth of the child. Such an order shall be sought by filing a petition setting forth the name(s) and address(es) of the intended parent(s), the gestational carrier, if there is one, and her spouse, if there is one, and appending affidavits which:

(1) Attest that the pregnancy resulted through means other than sexual intercourse verified by the participating health care provider;

(2) Acknowledge parentage verified by the parent or parents; and

(3) In cases involving a gestational carrier only,

(i) Acknowledge nonparentage verified by the gestational carrier and her spouse, if there is one; and

(ii) Attest to the gestational carrier agreement signed by all the parties in accordance with § 8-807 of this title.

(c) Except in circumstances outlined in subsection (b) of this section, the following actions may be taken before the birth of any child:

(1) Service of process;

(2) Discovery; and

(3) Except as prohibited by § 8-502 of this title, collection of specimens for genetic testing.

(74 Del. Laws, c. 136, § 1; 79 Del. Laws, c. 88, § 4.)

§ 8-612. Child as party; representation [Effective until Dec. 6, 2026].

(a) A minor child is a permissible party, but is not a necessary party to a proceeding under this subchapter.

(b) The court shall appoint a guardian ad litem to represent a minor or incapacitated child if the child is a party or the court finds that the interests of the child are not adequately represented.

(c) Where all necessary parties to a parentage action agree to genetic testing despite the availability of affirmative defenses, they shall be presumed to be adequately representing the interests of the child subject to the court's consideration of the factors recited in § 8-608(b) of this title.

(74 Del. Laws, c. 136, § 1; 77 Del. Laws, c. 456, § 4.)

Part 2

Special Rules for Proceeding to Adjudicate Parentage [Effective until Dec. 6, 2026].

§ 8-621. Admissibility of results of genetic testing; expenses [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (c) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within 14 days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(1) Voluntarily or pursuant to an order of the court or a support-enforcement agency; or

(2) Before or after the commencement of the proceeding.

(b) A party objecting to the results of genetic testing may call 1 or more genetic-testing experts to testify in person or by telephone, videoconference, deposition or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(c) If a child has a presumed, acknowledged or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(1) With the consent of both the mother and the presumed, acknowledged or adjudicated father; or

(2) Pursuant to an order of the court under § 8-502 of this title.

(d) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

(1) The amount of the charges billed; and

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-622. Consequences of declining genetic testing [Effective until Dec. 6, 2026].

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

(b) If an individual whose paternity is being determined declines to submit to genetic testing ordered by the court, the court for that reason may adjudicate parentage contrary to the position of that individual.

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-623. Admission of paternity authorized [Effective until Dec. 6, 2026].

(a) A respondent in a proceeding to adjudicate parentage or in a proceeding for child support or in any other proceeding in which the parentage of the child is an element of the claim for relief or a defense may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(b) If the court finds that the admission of paternity satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-624. Temporary order [Effective until Dec. 6, 2026].

(a) In a proceeding under this subchapter, the court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

(1) A presumed father of the child;

(2) Petitioning to have paternity adjudicated;

(3) Identified as the father through genetic testing under § 8-505 of this title;

(4) An alleged father who has declined to submit to genetic testing;

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

(6) The mother of the child.

(b) A temporary order may include provisions for custody and visitation as provided by other law of this State.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

Part 3

Hearings and Adjudication [Effective until Dec. 6, 2026].

§ 8-631. Rules for adjudication of paternity [Effective until Dec. 6, 2026].

The court shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed, acknowledged or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man identified as the father of a child under § 8-505 of this title must be adjudicated the father of the child.

(3) If the court finds that genetic testing under § 8-505 of this title neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, and other evidence, are admissible to adjudicate the issue of paternity.

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

(5) Paternity may not be established with regard to an alleged father without the assistance of genetic testing unless the mother of the child swears or affirms on the record or by affidavit, under penalty of perjury, that she did not have sexual intercourse with any other man at or about the time the child was conceived.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, § 5.)

§ 8-632. Jury prohibited [Effective until Dec. 6, 2026].

The court, without a jury, shall adjudicate paternity of a child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-633. Inspection of records [Effective until Dec. 6, 2026].

A final order in a proceeding under this subchapter is available for public inspection.

(74 Del. Laws, c. 136, § 1.)

§ 8-634. Order on default [Effective until Dec. 6, 2026].

The court shall issue an order adjudicating the paternity of a man who:

(1) After service of process, is in default; and

(2) Is found by the court to be the father of a child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-635. Dismissal for want of prosecution [Effective until Dec. 6, 2026].

The court may issue an order dismissing a proceeding commenced under this subchapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and has only the effect of a dismissal without prejudice.

(74 Del. Laws, c. 136, § 1.)

§ 8-636. Order adjudicating parentage [Effective until Dec. 6, 2026].

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

(b) An order adjudicating parentage must identify the child by name and date of birth except an order pursuant to § 8-611(a) of this title and health care providers shall report the person(s) determined by Family Court to be the parent(s) to the Office of Vital Statistics as required by § 3121 of Title 16, Registration of Births.

(c) Except as otherwise provided in subsection (d) of this section, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs and necessary travel and other reasonable expenses incurred in a proceeding under this subchapter. The court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

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

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

(f) If the order of the court is at variance with the child's birth certificate, the court shall order the Office of Vital Statistics to issue an amended birth registration.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 5.)

§ 8-637. Binding effect of determination of parentage [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section, a determination of parentage is binding on:

(1) All signatories to an acknowledgment or denial of paternity as provided in subchapter III of this chapter;

(2) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of § 6-201 of this title;

(3) The child.

(b) In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of § 6-201 of this title and the final order:

(1) Expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or

(2) Provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

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

(d) A party to an adjudication of paternity may challenge the adjudication only under law of this State relating to appeal, vacation of judgments or other judicial review.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-638. No right to reimbursement [Effective until Dec. 6, 2026].

If the court determines that an individual is not the parent of a child, the individual shall have no right to reimbursement for any child support or medical expenses paid prior to the date on which the other party or the public agency to which the payments were or are being made was served with notice of the proceeding in which the determination of nonparentage was made.

(74 Del. Laws, c. 136, § 1.)

§ 8-639. Full faith and credit [Effective until Dec. 6, 2026].

A court of this State shall give full faith and credit to a determination of parentage or nonparentage or denial of parentage made by a court or administrative agency of another state if the determination is made in compliance with the law of the other state.

(74 Del. Laws, c. 136, § 1.)

Subchapter VII

Child of Assisted Reproduction [Effective until Dec. 6, 2026].

§ 8-701. Scope of article [Effective until Dec. 6, 2026].

This subchapter does not apply to the birth of a child conceived by means of sexual intercourse.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-702. Parental status of donor [Effective until Dec. 6, 2026].

A donor is not a parent of a child conceived by means of assisted reproduction.

(74 Del. Laws, c. 136, § 1.)

§ 8-703. Paternity of a child of assisted reproduction [Effective until Dec. 6, 2026].

(a) A man who provides sperm for, or consents to, assisted reproduction by a woman as provided in § 8-704 of this title with intent to be the parent of her child, is a parent of the resulting child;

(b) The child shall be considered the child of the intended parent or parents immediately upon the birth of the child;

(c) Parental rights shall vest in the intended parent or parents immediately upon the birth of the child;

(d) Custody of the child shall vest with the intended parent or parents immediately upon the birth of the child; and

(e) Neither the gestational carrier, if any, nor her spouse, shall be the parent of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 6.)

§ 8-704. Consent to assisted reproduction [Effective until Dec. 6, 2026].

(a) Consent by a woman and an intended parent of a child conceived via assisted reproduction must be in a record signed by the woman and the intended parent. This requirement does not apply to a donor.

(b) Failure to sign a consent required by subsection (a) of this section, before or after birth of the child, does not preclude a finding of paternity pursuant to § 8-201 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 7.)

§ 8-705. Limitation on husband's dispute of paternity [Effective until Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section, the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:

(1) Within 2 years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

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

(b) A proceeding to adjudicate paternity may be maintained at any time if the court determines that:

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

(2) The husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

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

(c) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-706. Effect of dissolution of marriage or withdrawal of consent [Effective until Dec. 6, 2026].

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

(b) The consent of a woman or a man to assisted reproduction may be withdrawn by that individual in a record at any time before placement of eggs, sperm or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-707. Parental status of deceased individual [Effective until Dec. 6, 2026].

If an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or embryos, the deceased individual is not a parent of the resulting child unless the deceased individual consented in a record that if assisted reproduction were to occur after death, the deceased individual would be a parent of the child.

(74 Del. Laws, c. 136, § 1.)

Subchapter VIII

Gestational Carrier Agreement Act [Effective until Dec. 6, 2026].

§ 8-801. Short title [Effective until Dec. 6, 2026].

This subchapter may be cited as the "Gestational Carrier Agreement Act."

(79 Del. Laws, c. 88, § 8.)

§ 8-802. Scope and purpose [Effective until Dec. 6, 2026].

(a) The purpose of this subchapter is to establish consistent standards and procedural safeguards for the protection of all parties to a gestational carrier agreement in this State and to confirm the legal status of children born as a result of these agreements. These standards and safeguards are meant to facilitate the use of this type of reproductive agreement in accordance with the public policy of this State.

(b) This subchapter does not apply to the birth of a child conceived by means of sexual intercourse.

(79 Del. Laws, c. 88, § 8.)

§ 8-803. Bases for jurisdiction over nonresident [Effective until Dec. 6, 2026].

In a proceeding to enforce a gestational carrier agreement, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(a) The individual is personally served with notice within this State;

(b) The individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(c) The individual resided in this State at the time the individual executed the gestational carrier agreement or consented to the embryo transfer;

(d) The individual executed a gestational carrier agreement with a person or persons who resided in this State at the time the gestational carrier agreement was executed and voluntarily submitted to the jurisdiction of this State in the gestational carrier agreement;

(e) The nonresident gestational carrier had, or is expected to have an embryo transfer performed in this State pursuant to a gestational carrier agreement;

(f) The nonresident intended parent(s) consented to a gestational carrier having an embryo transfer in this State pursuant to a gestational carrier agreement;

(g) The child was, or is expected to be born in this State as demonstrated by a provision in the gestational carrier agreement;

(h) The child resides in this State as a result of the acts or directives of the individual; or

(i) There is any other basis consistent with the Constitutions of this State and the United States for the exercise of personal jurisdiction.

(79 Del. Laws, c. 88, § 8.)

§ 8-804. Parental status of gestational carrier [Effective until Dec. 6, 2026].

A gestational carrier is not a parent of a child born as a result of a gestational carrier arrangement.

(79 Del. Laws, c. 88, § 8.)

§ 8-805. Rights and responsibilities of parents [Effective until Dec. 6, 2026].

(a) Any person who is considered to be the parent of a child pursuant to this chapter shall have all the rights, responsibilities and obligations set forth in Chapter 7 of this title.

(b) The breach of the gestational carrier agreement by the intended parent(s) shall not relieve such intended parent(s) of the support obligations imposed by this chapter.

(c) In the event of a laboratory error in which the child conceived through means other than sexual intercourse is not genetically related to either of the intended parents, when the intent was for the child to be genetically related to 1 or both intended parents, the intended parents will be the parents of the child unless otherwise determined by a court of competent jurisdiction in an action which can only be brought by 1 or more of the genetic parents within 60 days of the date of the child's birth.

(79 Del. Laws, c. 88, § 8.)

§ 8-806. Eligibility [Effective until Dec. 6, 2026].

(a) Prior to executing an agreement to act as a gestational carrier, a woman must meet the following requirements:

(1) She is at least 21 years of age;

(2) She has given birth to at least 1 child;

(3) She has completed a medical evaluation;

(4) She has completed a mental health evaluation;

(5) She has been represented by independent legal counsel regarding the terms of the gestational carrier agreement and been advised of the potential legal consequences of the gestational carrier arrangement which legal expense shall be paid for by the intended parent(s) if requested; and

(6) She has or obtains prior to the embryo transfer a health insurance policy that covers major medical treatments and hospitalization and the health insurance policy has a term that extends throughout the duration of the expected pregnancy and for 8 weeks after the birth of the child; provided, however, that the policy may be procured by the intended parent(s) on behalf of the gestational carrier pursuant to the gestational carrier agreement.

(b) A person or persons intending to become a parent or parents, whether genetically related to the child or not, must meet the following requirements at the time the gestational carrier agreement is executed:

(1) The person or persons have completed a mental health evaluation; and

(2) The person or persons have independent legal representation regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier arrangement.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 8-807. Requirements for a gestational carrier agreement [Effective until Dec. 6, 2026].

(a) A gestational carrier agreement shall be enforceable if:

(1) It meets the requirements set forth in subsection (b) of this section, and

(2) It contains at a minimum each of the terms set forth in subsection (c) of this section.

(b) A gestational carrier agreement shall meet the following requirements:

(1) It shall be in writing;

(2) It shall be executed prior to the initiation of an embryo transfer in furtherance of the gestational carrier arrangement;

(i) By a gestational carrier meeting the eligibility requirements of § 8-806(a) of this title and, if married, the gestational carrier's spouse; and

(ii) By the intended parent(s) meeting the eligibility requirements of § 8-806(b) of this title. In the event an intended parent is married or a party to a civil union, both spouses must execute the gestational carrier agreement;

(3) The gestational carrier shall be represented by independent legal counsel and the intended parent or parents shall have been represented by independent counsel in all matters concerning the gestational carrier arrangement and the gestational carrier agreement;

(4) Each of the gestational carrier and the intended parent or parents shall have signed a written acknowledgement that such gestational carrier and intended parent or parents received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the gestational carrier agreement;

(5) If a gestational carrier agreement provides for the payment of compensation to the gestational carrier, the compensation shall have been placed in escrow with an independent escrow agent pursuant to an escrow agreement prior to the gestational carrier's commencement of any medical procedure (other than medical or mental health evaluations necessary to determine the gestational carrier's eligibility pursuant to § 8-806(a) of this title); and

(6) It shall be witnessed by 2 disinterested, competent adults.

(c) A gestational carrier agreement shall expressly provide the following:

(1) The written agreement of the gestational carrier to:

(i) Undergo embryo transfer and attempt to carry and give birth to the child; and

(ii) Surrender custody of all resulting children to the intended parent or parents immediately upon the birth of the child(ren);

(2) If the gestational carrier is married, her spouse:

(i) Acknowledges and agrees to abide by the obligations imposed on the gestational carrier pursuant to the terms of the gestational carrier agreement; and

(ii) Surrenders custody of all resulting children to the intended parent or parents immediately upon the birth of the child(ren);

(3) The right of the gestational carrier to utilize the services of a health care provider of her choosing, after consultation with the intended parents, to provide her care during the pregnancy; and

(4) The written agreement of the intended parent or parents to:

(i) Accept legal custody of all resulting children immediately upon birth; and

(ii) Assume sole responsibility for all resulting children immediately upon birth.

(d) A gestational carrier agreement shall be enforceable even though it contains 1 or more of the following provisions:

(1) The gestational carrier's agreement to undergo all medical exams, treatments, and fetal monitoring procedures that the physician recommends for the success of the pregnancy;

(2) The gestational carrier's agreement to abstain from any activities that the intended parent or parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child, including, without limitation, smoking, drinking alcohol, using nonprescribed drugs, using prescription drugs not authorized by a physician aware of the gestational carrier's pregnancy, exposure to radiation, or any other activities proscribed by a health care provider;

(3) The agreement of the intended parent or parents to pay the gestational carrier reasonable compensation; and

(4) The agreement of the intended parent or parents to pay for or reimburse the gestational carrier for reasonable expenses (including, without limitation, medical, legal, or other professional expenses) related to the gestational carrier arrangement and the gestational carrier agreement.

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

(f) An escrow agent which enters into an escrow agreement with a party to a gestational carrier agreement which is governed by Delaware law, or with a Delaware resident who is a party to a gestational carrier agreement, consents to the jurisdiction of the Delaware courts for all proceedings related to the enforcement of the escrow agreement.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1.)

§ 8-808. Immunities [Effective until Dec. 6, 2026].

Except as provided in this subchapter, no person shall be liable for non-negligent actions taken pursuant to the requirements of this subchapter.

(79 Del. Laws, c. 88, § 8.)

§ 8-809. Effect of noncompliance [Effective until Dec. 6, 2026].

Except as otherwise provided in this chapter, in the event of noncompliance with the requirements of this subchapter, a court of competent jurisdiction shall determine the respective rights and obligations of the parties.

(79 Del. Laws, c. 88, § 8.)

§ 8-810. Remedies [Effective until Dec. 6, 2026].

(a) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the intended parent(s) shall be entitled to all remedies available at law or equity.

(b) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the gestational carrier shall be entitled to all remedies available at law or equity.

(c) Specific performance is not an available remedy for a breach by the gestational carrier of a gestational carrier agreement term that requires her to be impregnated.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1.)

§ 8-811. Severability [Effective until Dec. 6, 2026].

If any provision of this subchapter or its application to any person or circumstance is held to be invalid, the invalidity of that provision or application does not affect other provisions or applications of this subchapter that can be given effect without the invalid provision or application.

(79 Del. Laws, c. 88, § 8.)

§ 8-812. Irrevocability [Effective until Dec. 6, 2026].

No action to invalidate a gestational carrier agreement meeting the requirements of § 8-807(b) of this title or to challenge the rights of parentage established pursuant to this subchapter shall commence after 12 months from the date of birth of the child subject to § 8-606(e) of this title.

(79 Del. Laws, c. 88, § 8.)

§ 8-813. Application [Effective until Dec. 6, 2026].

(a) The rule of construction that statutes in derogation of the common law are to be strictly construed shall have no application to this subchapter. This subchapter shall be broadly construed to accomplish its intended purposes.

(b) The provisions of this subchapter shall apply only to agreements executed after the July 3, 2013, except proceedings for pre-birth determination of parentage pursuant to § 8-611(a) of this title which may be commenced on or after July 3, 2013.

(79 Del. Laws, c. 88, § 8.)

Subchapter IX

Miscellaneous Provisions [Effective until Dec. 6, 2026].

§ 8-901. Uniformity of application and construction [Effective until Dec. 6, 2026].

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(74 Del. Laws, c. 136, § 1.)

§ 8-902. Severability clause [Effective until Dec. 6, 2026].

If any provision of this chapter or its application to an individual or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(74 Del. Laws, c. 136, § 1.)

§ 8-903. Effective date; effect on existing parentage [Effective until Dec. 6, 2026].

This chapter takes effect on January 1, 2004. Any determination of parentage or nonparentage made under the law of this State prior to January 1, 2004, remains in force and effect.

(74 Del. Laws, c. 136, § 1.)

§ 8-904. Transitional provision [Effective until Dec. 6, 2026].

A proceeding to adjudicate parentage which was commenced before January 1, 2004, is governed by the law in effect at the time the proceeding was commenced.

(74 Del. Laws, c. 136, § 1.)

Chapter 8
Uniform Parentage Act [Effective Dec. 6, 2026].

Subchapter I
General Provisions [Effective Dec. 6, 2026].

§ 8-101. Short title [Effective Dec. 6, 2026].

This chapter may be cited as the "Uniform Parentage Act (2017)."

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 1.)

§ 8-102. Definitions [Effective Dec. 6, 2026].

In this chapter:

(1) "Acknowledged parent" means an individual who has established a parent-child relationship under subchapter III of this chapter.

(2) "Adjudicated parent" means an individual who has been adjudicated by a court of competent jurisdiction to be the parent of a child.

(3) "Alleged genetic parent" means an individual who alleges to be, or is alleged to be, a genetic parent or a possible genetic parent of a child whose parentage has not been adjudicated. The term includes an alleged genetic father and alleged genetic mother. The term does not include:

a. A presumed parent;

b. An individual whose parental rights have been terminated or declared not to exist; or

c. A donor.

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

a. Insemination;

b. Donation of gametes;

c. Donation of embryos;

d. In-vitro fertilization and transfer of embryos; and

e. Intracytoplasmic sperm injection.

(5) "Birth" includes stillbirth.

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

(7) "Child-support agency" means a government entity, public official, or private agency, authorized to provide parentage-establishment services under Title IV-D of the Social Security Act, 42 U.S.C. §§ 651 through 669.

(8) "Commence" means to file the initial pleading seeking an adjudication of parentage in the Family Court of this State. "Commenced" and "commencement" have a similar meaning.

(9) a. "Compensation" means payment of any valuable consideration.

b. "Compensation" does not include payment for reasonable medical and ancillary costs.

(10) "Determination of parentage" means establishment of a parent-child relationship by a judicial or administrative proceeding or the signing of a valid acknowledgment of parentage under subchapter III of this chapter.

(11) "Donor" means an individual who provides gametes or embryos intended for use in assisted reproduction, whether or not for consideration. The term does not include:

a. An individual who gives birth to a child conceived by means of assisted reproduction, except as otherwise provided in subchapter VIII of this chapter; or

b. A parent under subchapter VII of this chapter or an intended parent under subchapter VIII of this chapter.

(12) "Gamete" means sperm, egg, or any part of a sperm or egg.

(13) "Genetic testing" means an analysis of genetic markers to identify or exclude a genetic relationship.

(14) "Individual" means a natural person of any age.

(15) "Intended parent" means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction.

(16) "In vitro fertilization" means the fertilization of egg with sperm outside of the human body.

(17) "Notarial officer" means a notary public or other individual authorized under subchapter II of Chapter 43 of Title 29 to perform a notarial act.

(18) "Parent" means an individual who has established a parent-child relationship under § 8-201 of this title.

(19) "Parentage" or "parent-child relationship" means the legal relationship between a child and a parent of the child.

(20) “Presumed parent” means an individual who, under § 8-204 of this title, is presumed to be a parent of a child, unless the presumption is overcome in a judicial proceeding, a valid denial of parentage is made under subchapter III of this chapter, or a court adjudicates the individual to be a parent.

(21) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(22) “Sign” means, with present intent to authenticate or adopt a record:

a. To execute or adopt a tangible symbol; or

b. To attach to or logically associate with the record an electronic symbol, sound, or process.

(23) “Signatory” means an individual who signs a record.

(24) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(25) “Transfer” means a procedure for assisted reproduction by which an embryo or sperm is placed in the body of the individual who will give birth to the child.

(26) “Witnessed” means that at least 1 individual who is authorized to sign has signed a record to verify that the individual personally observed a signatory sign the record.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 1; 85 Del. Laws, c. 276, § 2.)

§ 8-103. Scope of chapter; choice of law [Effective Dec. 6, 2026].

(a) This chapter applies to an adjudication or determination of parentage in this State.

(b) The court shall apply the law of this State to adjudicate the parent-child relationship. The applicable law does not depend on:

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

(2) The past or present residence of the child.

(c) This chapter does not create, affect, enlarge, or diminish parental rights or duties under law of this State other than this chapter.

(d) This chapter authorizes a surrogacy agreement as provided in subchapter VIII of this chapter. If a birth results under a surrogacy agreement and the agreement is unenforceable under the law of this State, the parent-child relationship is determined as provided in subchapter VIII of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 2; 85 Del. Laws, c. 276, § 3.)

§ 8-104. Court of this State [Effective Dec. 6, 2026].

The Family Court of the State of Delaware may adjudicate parentage under this chapter.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 4.)

§ 8-105. Protection of participants [Effective Dec. 6, 2026].

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial under this chapter must be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court otherwise directs for good cause.

(b) All records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the appropriate public agency or elsewhere, are subject to inspection by persons other than the parties only with consent of the court, for good cause.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 5.)

§ 8-106. Determination of maternity and paternity [Effective Dec. 6, 2026].

To the extent practicable, a provision of this chapter applicable to a father-child relationship applies to a mother-child relationship and a provision of this chapter applicable to a mother-child relationship applies to a father-child relationship.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 6.)

§ 8-107. Child’s right to determination of parentage [Effective Dec. 6, 2026].

A child has the same rights and protections under law to parentage without regard to the marital status, age, gender, gender identity, or sexual orientation of the child’s parents or the circumstances of the child’s birth, including whether the child was born as a result of gestational or genetic surrogacy under subchapter VIII of this chapter or assisted reproduction.

(85 Del. Laws, c. 276, § 7.)

Subchapter II

Parent-Child Relationship [Effective Dec. 6, 2026].

§ 8-201. Establishment of parent-child relationship [Effective Dec. 6, 2026].

A parent-child relationship is established between an individual and a child if:

(1) The individual gives birth to the child, except as otherwise provided in subchapter VIII of this chapter;

(2) There is a presumption under § 8-204 of this title of the individual's parentage of the child, unless the presumption is overcome in a judicial proceeding or a valid denial of parentage is made under subchapter III of this chapter;

(3) The individual is adjudicated a parent of the child under subchapter VI of this chapter, including as a de facto parent under § 8-609 of this title;

(4) The individual adopts the child;

(5) The individual acknowledges parentage of the child under subchapter III of this chapter, unless the acknowledgment is rescinded under § 8-307 of this title or successfully challenged under subchapter III or VI of this chapter;

(6) The individual's parentage of the child is established under subchapter VII of this chapter; or

(7) The individual's parentage of the child is established under subchapter VIII of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 97, §§ 1-3; 79 Del. Laws, c. 88, § 3; 85 Del. Laws, c. 276, § 8.)

§ 8-202. No discrimination based on marital status of parent [Effective Dec. 6, 2026].

A parent-child relationship extends equally to every child and parent, regardless of the marital status of the parent.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 9.)

§ 8-203. Consequences of establishment of parentage [Effective Dec. 6, 2026].

Unless parental rights are terminated, a parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by law of this State other than this chapter.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 10.)

§ 8-204. Presumption of parentage [Effective Dec. 6, 2026].

(a) An individual is presumed to be a parent of a child if:

(1) Except as otherwise provided under subchapter VIII of this chapter or law of this State other than this chapter:

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

b. The individual and the individual who gave birth to the child were married to each other and the child is born not later than 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, whether the marriage is or could be declared invalid; or

c. The individual and the individual who gave birth to the child married each other after the birth of the child, whether the marriage is or could be declared invalid, the individual at any time asserted parentage of the child, and:

1. The assertion is in a record filed with the Office of Vital Statistics; or

2. The individual agreed to be and is named as a parent of the child on the birth certificate of the child; or

3. The individual agreed in a record to support the child as the individual's own child; or

(2) The individual resided in the same household with the child for the first 2 years of the life of the child, including any period of temporary absence, and openly held out the child as the individual's child.

(b) A presumption of parentage under this section may be overcome, and competing claims of parentage may be resolved, only by an adjudication under subchapter VI of this chapter or a valid denial of parentage under subchapter III of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 11.)

Subchapter III

Voluntary Acknowledgement of Parentage [Effective Dec. 6, 2026].

§ 8-301. Acknowledgment of parentage [Effective Dec. 6, 2026].

An individual who gave birth to a child and an alleged genetic parent of the child, parent under subchapter VII of this chapter, or presumed parent may sign an acknowledgment of parentage to establish the parentage of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 13.)

§ 8-302. Execution of acknowledgment of parentage [Effective Dec. 6, 2026].

(a) An acknowledgment of parentage under § 8-301 of this title must:

(1) Be in a record signed by the individual who gave birth to the child and by the individual seeking to establish a parent-child relationship, and the signatures must be attested by a notarial officer;

(2) State that the child whose parentage is being acknowledged:

a. Does not have a presumed parent other than the individual seeking to establish the parent-child relationship or has a presumed parent whose full name is stated; and

b. Does not have another acknowledged parent, adjudicated parent, or individual who is a parent of the child under subchapter VII or VIII of this chapter other than the individual who gave birth to the child; and

(3) State that the signatories understand that the acknowledgment is the equivalent of an adjudication of parentage of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred 2 years after the effective date of the acknowledgment.

(b) An acknowledgment of parentage is void if, at the time of signing:

(1) An individual, other than the individual seeking to establish parentage, is a presumed parent, unless a denial of parentage by the presumed parent in a signed record is filed with the Office of Vital Statistics;

(2) An individual, other than the individual who gave birth to the child or the individual seeking to establish parentage, is an acknowledged or adjudicated parent or a parent under subchapter VII or VIII of this chapter; or

(3) The individual who gave birth to the child or the individual seeking to establish parentage is a minor.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 516, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 233, § 18; 85 Del. Laws, c. 276, § 14.)

§ 8-303. Denial of parentage [Effective Dec. 6, 2026].

A presumed parent may sign a denial of parentage in a record. The denial of parentage is valid only if:

(1) An acknowledgment of parentage by another individual is filed under § 8-305 of this title;

(2) The signature of the presumed parent is attested by a notarial officer; and

(3) The presumed parent has not previously:

a. Completed a valid acknowledgment of parentage, unless the previous acknowledgment was rescinded under § 8-307 of this title or challenged successfully under § 8-308 of this title; or

b. Been adjudicated to be a parent of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 15.)

§ 8-304. Rules for acknowledgment or denial of parentage [Effective Dec. 6, 2026].

(a) An acknowledgment of parentage and a denial of parentage may be contained in a single document or may be in counterparts and may be filed with the Office of Vital Statistics separately or simultaneously. If filing of the acknowledgment and denial are both required under this chapter, neither is effective until both are filed.

(b) An acknowledgment of parentage or a denial of parentage may be signed before or after the birth of the child.

(c) Subject to subsection (a) of this section, an acknowledgment of parentage or denial of parentage takes effect on the birth of the child or filing of the document with the Office of Vital Statistics, whichever occurs later.

(d) [Repealed.]

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 516, § 1; 85 Del. Laws, c. 276, § 16.)

§ 8-305. Effect of acknowledgment or denial of parentage [Effective Dec. 6, 2026].

(a) Except as otherwise provided in §§ 8-307 and 8-308 of this title, an acknowledgment of parentage that complies with this subchapter and is filed with the Office of Vital Statistics is equivalent to an adjudication of parentage of the child and confers on the acknowledged parent all rights and duties of a parent.

(b) Except as otherwise provided in §§ 8-307 and 8-308 of this title, a denial of parentage by a presumed parent that complies with this subchapter and is filed with the Office of Vital Statistics with an acknowledgment of parentage that complies with this subchapter is equivalent to an adjudication of the nonparentage of the presumed parent and discharges the presumed parent from all rights and duties of a parent.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 17.)

§ 8-306. No filing fee [Effective Dec. 6, 2026].

The Office of Vital Statistics may not charge a fee for filing an acknowledgment of parentage or denial of parentage.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 18.)

§ 8-307. Proceeding for rescission [Effective Dec. 6, 2026].

(a) A signatory may rescind an acknowledgment of parentage or denial of parentage by commencing a proceeding to rescind before the earlier of:

(1) Sixty days after the effective date under § 8-304 of this title of the acknowledgment or denial; or

(2) The date of the first hearing before a court in a proceeding, to which the signatory is party, to adjudicate an issue relating to the child, including a proceeding that establishes support.

(b) If an acknowledgment of parentage is rescinded under subsection (a) of this section, an associated denial of parentage is invalid, and the Office of Vital Statistics shall notify the individual who gave birth to the child and the individual who signed a denial of parentage of the child that the acknowledgment has been rescinded. Failure to give the notice required by this subsection does not affect the validity of the rescission.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 19.)

§ 8-308. Challenge after expiration of period for rescission [Effective Dec. 6, 2026].

(a) After the period for rescission under § 8-307 of this title expires, but not later than 2 years after the effective date under § 8-304 of this title of an acknowledgment of parentage or denial of parentage, a signatory of the acknowledgment or denial may commence a proceeding to challenge the acknowledgment or denial only on the basis of fraud, duress, or material mistake of fact.

(b) A challenge to an acknowledgment of parentage or denial of parentage by an individual who was not a signatory to the acknowledgment or denial is governed by § 8-610 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 20.)

§ 8-309. Procedure for rescission or challenge by signatory [Effective Dec. 6, 2026].

(a) Every signatory to an acknowledgment of parentage and any related denial of parentage must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(b) By signing an acknowledgment of parentage or denial of parentage a signatory submits to personal jurisdiction in this State in a proceeding to rescind or challenge the acknowledgment or denial, effective on the filing of the acknowledgment or denial with the Office of Vital Statistics.

(c) The court may not suspend the legal responsibilities arising from an acknowledgment of parentage, including the duty to pay child support, during the pendency of a proceeding to rescind or challenge the acknowledgment or a related denial of parentage, unless the party challenging the acknowledgment or denial shows good cause.

(d) A party seeking to rescind or challenge an acknowledgement of parentage or denial of parentage has the burden of proof.

(e) If the court determines that a party has satisfied the burden of proof under subsection (d) of this section, the court shall order the Office of Vital Statistics to amend the birth record of the child to reflect the legal parentage of the child.

(f) A proceeding to rescind or challenge an acknowledgment of parentage or denial of parentage must be conducted under subchapter VI of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 21.)

§ 8-310. Ratification barred [Effective Dec. 6, 2026].

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

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 22.)

§ 8-311. Full faith and credit [Effective Dec. 6, 2026].

A court of this State shall give full faith and credit to an acknowledgment of parentage or denial of parentage effective in another state if the acknowledgment or denial was in a signed record and is otherwise in compliance with the law of the other state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 23.)

§ 8-312. Forms for acknowledgment and denial of parentage [Effective Dec. 6, 2026].

(a) The Division of Child Support Services shall prescribe forms for an acknowledgment of parentage and denial of parentage.

(b) A valid acknowledgment of parentage or denial of parentage is not affected by a later modification of the form under subsection (a) of this section.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 14; 85 Del. Laws, c. 276, § 24.)

§ 8-313. Release of information [Effective Dec. 6, 2026].

The Division of Child Support Services may release information relating to the acknowledgment of parentage or denial of parentage to a signatory of the acknowledgment or denial, a court, federal agency, and child support agency of this State or another state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 15; 85 Del. Laws, c. 276, § 25.)

§ 8-314. Adoption of rules [Effective Dec. 6, 2026].

The Division of Child Support Services may adopt rules under Chapter 101 of Title 29 to implement this subchapter.

(74 Del. Laws, c. 136, § 1; 80 Del. Laws, c. 234, § 16; 85 Del. Laws, c. 276, § 26.)

Subchapter IV
Registry of Paternity [Effective Dec. 6, 2026].
Part 1
General Provisions [Effective Dec. 6, 2026].

§ 8-401. Establishment of registry.

A registry of paternity is established in the Office of Vital Statistics.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1.)

§ 8-402. Registration for notification [Effective Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of § 8-405 of this title, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, the man's genetic child must register in the registry of paternity established by § 8-401 of this title before the birth of the child or not later than 30 days after the birth.

(b) A man is not required to register under subsection (a) of this section if:

(1) A parent-child relationship between the man and the child has been established under this chapter or the law of this State other than this chapter; or

(2) The man commences a proceeding to adjudicate the man's parentage before a court has terminated the man's parental rights.

(c) A man who registers under subsection (a) of this section shall notify the registry promptly in a record of any change in the information registered. The Office of Vital Statistics shall incorporate new information received into Office's records but need not seek to obtain current information for incorporation in the registry.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 27.)

§ 8-403. Notice of proceeding [Effective Dec. 6, 2026].

(a) An individual who seeks to adopt a child or terminate parental rights to the child shall give notice of the proceeding to a man who has registered timely under § 8-402(a) of this title regarding the child.

(b) Notice must be given in a manner prescribed for service of process in a civil proceeding in this State.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 28.)

§ 8-404. Termination of parental rights; child under 1 year of age [Effective Dec. 6, 2026].

An individual who seeks to adopt a child or terminate parental rights to the child is not required to give notice of the proceeding to a man who may be the genetic father of the child if:

(1) The child is under 1 year of age at the time of the termination of parental rights;

(2) The man did not register timely with the Office of Vital Statistics under § 8-402(a) of this title; and

(3) The man is not exempt from registration under § 8-402(b) of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 29.)

§ 8-405. Termination of parental rights; child at least 1 year of age [Effective Dec. 6, 2026].

(a) If a child is at least 1 year of age, an individual seeking to adopt or terminate parental rights to the child shall give notice of the proceeding to each alleged genetic father of the child, whether or not the alleged genetic father has registered under § 8-402(a) of this title unless the alleged genetic father's parental rights have already been terminated.

(b) Notice must be given in a manner prescribed for service of process in a civil proceeding in this State.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 30.)

§ 8-406. Required form [Effective Dec. 6, 2026].

(a) The Office of Vital Statistics shall prescribe a form for registering under § 8-402(a) of this title. The form must state that:

(1) The man who registers signs the form under penalty of perjury.

(2) Timely registration entitles the man who registers to notice of a proceeding for adoption of the child or termination of the man's parental rights;

(3) Timely registration does not commence a proceeding to establish parentage;

(4) The information disclosed on the form may be used against the man to establish parentage;

(5) Services to assist in establishing parentage are available to the man who registers through the child-support agency;

(6) The man who registers also may register in a registry of paternity in another state if conception or birth of the child occurred in the other state.

(7) Information on registries of paternity of other states is available from the Office of Vital Statistics and the child-support agency; and

(8) Procedures exist to rescind the registration.

(b) A man who registers under § 8-402(a) of this title shall sign the form described in subsection (a) of this section under penalty of perjury.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 31.)

§ 8-407. Furnishing of information; confidentiality [Effective Dec. 6, 2026].

(a) The Office of Vital Statistics is not required to seek to locate the individual who gave birth to the child who is the subject of a registration under § 8-402(a) of this title, but the Office of Vital Statistics shall give notice of the registration to that individual if the Office of Vital Statistics has that individual's address.

(b) Information contained in the registry established by § 8-401 of this title is confidential and may be released on request only to:

(1) A court or an individual designated by the court;

(2) The individual who gave birth to the child who is the subject of the registration;

(3) An agency authorized by law of this State other than this chapter, law of another state, or federal law to receive the information;

(4) A licensed child-placing agency;

(5) A child-support agency;

(6) A party or the party's attorney of record in a proceeding under this chapter or in a proceeding to adopt or to terminate parental rights to the child who is the subject of the registration; and

(7) A registry of paternity in another state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 32.)

Part 2

Operation of Registry [Effective Dec. 6, 2026].

§ 8-408. Penalty for releasing information; class A misdemeanor [Effective Dec. 6, 2026].

(a) An individual may not intentionally release information from the registry established by § 8-401 of this title to an individual or agency not authorized under § 8-407(b) of this title to receive the information.

(b) A violation of this section is a class A misdemeanor.

(c) The Superior Court has exclusive jurisdiction over a violation of this section.

(85 Del. Laws, c. 276, § 33.)

§ 8-409. Rescission of registration [Effective Dec. 6, 2026].

A man who registers under § 8-402(a) of this title may rescind registration at any time by filing with the registry established by § 8-401 of this title a rescission in a signed record that is attested by a notarial officer or witnessed.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 34.)

§ 8-410. Untimely registration [Effective Dec. 6, 2026].

If a man registers under § 8-402(a) of this title more than 30 days after the birth of the child, the Office of Vital Statistics shall notify the man that, based on a review of the registration, the registration was not filed timely.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 35.)

§ 8-411. Fees for registry [Effective Dec. 6, 2026].

(a) The Office of Vital Statistics may not charge a fee for filing a registration under § 8-402(a) of this title or a rescission of registration under § 8-409 of this title.

(b) Except as otherwise provided in subsection (c) of this section, the Office of Vital Statistics may charge a reasonable fee to search the registry established by § 8-401 of this title and for furnishing a certificate of search under § 8-414 of this title.

(c) A child-support agency and other appropriate agencies of this State, if any, are not required to pay a fee authorized by subsection (b) of this section.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 36.)

Part 3

Search of Registries [Effective Dec. 6, 2026].

§ 8-412. Child born through assisted reproduction; search of registry inapplicable [Effective Dec. 6, 2026].

This Part does not apply to a child born through assisted reproduction.

(85 Del. Laws, c. 276, § 37.)

§ 8-413. Search of appropriate registry [Effective Dec. 6, 2026].

If a parent-child relationship has not been established under this chapter between a child who is under 1 year of age and an individual other than the individual who gave birth to the child:

(1) An individual seeking to adopt or terminate parental rights to the child shall obtain a certificate of search under § 8-414 of this title to determine if a registration has been filed in the registry established by § 8-401 of this title regarding the child; and

(2) If the individual has reason to believe that conception or birth of the child may have occurred in another state, the individual shall obtain a certificate of search from the registry, if any, in that state.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 38.)

§ 8-414. Certificate of search of registry [Effective Dec. 6, 2026].

(a) The Office of Vital Statistics shall furnish a certificate of search of the registry established by § 8-401 of this title on request to an individual, court, or agency identified in § 8-407(b) of this title or an individual required under § 8-413(1) of this title to obtain a certificate.

(b) A certificate furnished under subsection (a) of this section:

(1) Must be signed on behalf of the Office of Vital Statistics and state that:

a. A search has been made of the registry; and

b. A registration under § 8-402(a) of this title containing the information required to identify the man who registered under § 8-402(a) of this title:

1. Has been found; or

2. Has not been found; and

(2) If paragraph (b)(1)b.1. of this section applies, must have a copy of the registration attached.

(c) An individual seeking to adopt or terminate parental rights to a child must file with the court the certificate of search furnished under subsection (a) of this section and § 8-413(2) of this title, if applicable, before a proceeding to adopt or terminate parental rights to the child may be concluded.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 39.)

§ 8-415. Admissibility of registered information [Effective Dec. 6, 2026].

A certificate of search of a registry of paternity in this or another state is admissible in a proceeding for adoption of, or termination of, parental rights to a child and, if relevant, in other legal proceedings.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 40.)

Subchapter V

Genetic Testing [Effective Dec. 6, 2026].

§ 8-501. Definitions [Effective Dec. 6, 2026].

In this subchapter:

(1) “Combined relationship index” means the product of all tested relationship indices.

(2) “Ethnic or racial group” means, for the purpose of genetic testing, a recognized group that an individual identifies as the individual’s ancestry or part of the ancestry or that is identified by other information.

(3) “Hypothesized genetic relationship” means an asserted genetic relationship between an individual and a child.

(4) “Probability of parentage” means, for the ethnic or racial group to which an individual alleged to be a parent belongs, the probability that a hypothesized genetic relationship is supported, compared to the probability that a genetic relationship is supported between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship, expressed as a percentage incorporating the combined relationship index and a prior probability.

(5) “Relationship index” means a likelihood ratio that compares the probability of a genetic marker given a hypothesized genetic relationship and the probability of the genetic marker given a genetic relationship between the child and a random individual of the ethnic or racial group used in the hypothesized genetic relationship.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 1; 85 Del. Laws, c. 276, § 41.)

§ 8-502. Scope of subchapter; limitation on use of genetic testing [Effective Dec. 6, 2026].

(a) This subchapter governs genetic testing of an individual in a proceeding to adjudicate parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested under an order of the court or a child-support agency.

(b) Genetic testing may not be used:

(1) To challenge the parentage of an individual who is a parent under subchapter VII or VIII of this chapter; or

(2) To establish the parentage of an individual who is a donor.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 42.)

§ 8-503. Authority to order or deny genetic testing [Effective Dec. 6, 2026].

(a) Except as otherwise provided in this subchapter and subchapter VI of this chapter, in a proceeding under this chapter to determine parentage, the court shall order the child and any other individual to submit to genetic testing if a request for testing is supported by the sworn statement of a party:

(1) Alleging a reasonable possibility that the individual is the child's genetic parent; or

(2) Denying genetic parentage of the child and stating facts establishing a reasonable possibility that the individual is not a genetic parent.

(b) A child-support agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated parent of a child other than the individual who gave birth to the child.

(c) The court or child-support agency may not order in utero genetic testing.

(d) If 2 or more individuals are subject to court-ordered genetic testing, the court may order that testing be completed concurrently or sequentially.

(e) Genetic testing of an individual who gave birth to a child is not a condition precedent to testing of the child and an individual whose genetic parentage of the child is being determined. If the individual who gave birth to a child is unavailable or declines to submit to genetic testing, the court may order genetic testing of the child and each individual whose genetic parentage of the child is being adjudicated.

(f) In a proceeding to adjudicate the parentage of a child having a presumed parent or an individual who claims to be a parent under § 8-609 of this title, or to challenge an acknowledgment of parentage, the court may deny a motion for genetic testing of the child and any other individual after considering the factors in § 8-613(a) and (b) of this title.

(g) If an individual requesting genetic testing is barred under subchapter VI of this chapter from establishing the individual's parentage, the court shall deny the request for genetic testing.

(h) An order under this section for genetic testing is enforceable by contempt.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, §§ 3, 6; 85 Del. Laws, c. 276, § 43.)

§ 8-504. Requirements for genetic testing [Effective Dec. 6, 2026].

(a) Genetic testing must be of a type reasonably relied on by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(1) The AABB, formerly known as the American Association of Blood Banks, or a successor to the AABB's functions; or

(2) An accrediting body designated by the Secretary of the United States Department of Health and Human Services.

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

(c) Based on the ethnic or racial group of an individual undergoing genetic testing, a testing laboratory shall determine the databases from which to select frequencies for use in calculating a relationship index. If an individual or a child-support agency objects to the laboratory's choice, the following rules apply:

(1) Not later than 30 days after receipt of the report of the test, the objecting individual or child support agency may request the court to require the laboratory to recalculate the relationship index using an ethnic or racial group different from that used by the laboratory.

(2) The individual or child-support agency objecting to the laboratory's choice under this subsection shall:

a. If the requested frequencies are not available to the laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

b. Engage another laboratory to perform the calculations.

(3) The laboratory may use the laboratory's own statistical estimate if there is a question as to which ethnic or racial group is appropriate. The laboratory shall calculate the frequencies using statistics, if possible, for any other ethnic or racial group requested.

(d) If, after recalculation of the relationship index under subsection (c) of this section using a different ethnic or racial group, genetic testing under § 8-506 of this title does not identify an individual as a genetic parent of a child, the court may require an individual who has been tested to submit to additional genetic testing to identify a genetic parent.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 44.)

§ 8-505. Report of genetic testing [Effective Dec. 6, 2026].

(a) A report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report complying with the requirements of this subchapter is self-authenticating.

(b) Documentation from a testing laboratory of the following information is sufficient to establish a reliable chain of custody and allows the results of genetic testing to be admissible without testimony:

(1) The name and photograph of each individual whose specimen has been taken;

(2) The name of the individual who collected each specimen;

(3) The place and date each specimen was collected;

(4) The name of the individual who received each specimen in the testing laboratory; and

(5) The date each specimen was received.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 45.)

§ 8-506. Genetic testing results; challenge to results [Effective Dec. 6, 2026].

(a) Subject to a challenge under subsection (b) of this section, an individual is identified under this chapter as a genetic parent of a child if genetic testing complies with this subchapter and the results of the testing disclose:

(1) The individual has at least a 99% percent probability of parentage, using a prior probability of 0.50, as calculated by using the combined relationship index obtained in the testing; and

(2) A combined relationship index of at least 100 to 1.

(b) An individual identified under subsection (a) of this section as a genetic parent of the child may challenge the genetic testing results only by other genetic testing satisfying the requirements of this subchapter which:

(1) Excludes the individual as a genetic parent of the child; or

(2) Identifies another individual as a possible genetic parent of the child other than:

a. The individual who gave birth to the child; or

b. The individual identified under subsection (a) of this section.

(c) Except as otherwise provided in § 8-511 of this title, if more than 1 individual other than the individual who gave birth is identified by genetic testing as a possible genetic parent of the child, the court shall order each individual to submit to further genetic testing to identify a genetic parent.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 46.)

§ 8-507. Costs of genetic testing [Effective Dec. 6, 2026].

(a) Subject to assessment of fees under subchapter VI of this chapter, payment of the cost of initial genetic testing must be made in advance:

(1) By a child-support agency in a proceeding in which the child-support agency is providing services;

(2) By the individual who made the request for genetic testing;

(3) As agreed by the parties; or

(4) As ordered by the court.

(b) If the cost of genetic testing is paid by a child-support agency, the agency may seek reimbursement from the genetic parent whose parent-child relationship is established.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 47.)

§ 8-508. Additional genetic testing [Effective Dec. 6, 2026].

The Court or child-support agency shall order additional genetic testing on request of an individual who contests the result of the initial testing under § 8-506 of this title. If initial genetic testing under § 8-506 of this title identified an individual as a genetic parent of the child, the court or agency may not order additional testing unless the contesting individual pays for the testing in advance.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 48.)

§ 8-509. Genetic testing when specimen not available [Effective Dec. 6, 2026].

(a) Subject to subsection (b) of this section, if a genetic-testing specimen is not available from an alleged genetic parent of a child, for good cause and under circumstances the court considers to be just, the court may order any of the following individuals to submit specimens for genetic testing:

(1) A parent of the alleged genetic parent;

(2) A sibling of the alleged genetic parent;

(3) Another child of the alleged genetic parent and the individual who gave birth to the other child; and

(4) Another relative of the alleged genetic parent necessary to complete genetic testing.

(b) To issue an order under this section, the court must find that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 49.)

§ 8-510. Deceased individual [Effective Dec. 6, 2026].

If an individual seeking genetic testing demonstrates good cause, the court may order genetic testing of a deceased individual.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 50.)

§ 8-511. Identical siblings [Effective Dec. 6, 2026].

(a) If the court finds there is reason to believe that an alleged genetic parent has an identical sibling and evidence that the sibling may be a genetic parent of the child, the court may order genetic testing of the sibling.

(b) If more than 1 sibling is identified under § 8-506 of this title as a genetic parent of the child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 51.)

§ 8-512. Confidentiality of genetic testing; violation is class A misdemeanor [Effective Dec. 6, 2026].

(a) Release of a report of genetic testing for parentage is controlled by law of this State other than this chapter.

(b) An individual may not intentionally release an identifiable specimen of another individual collected for genetic testing under this subchapter for a purpose not relevant to a proceeding regarding parentage, without a court order or written permission of the individual who furnished the specimen.

(c) A violation of this section is a class A misdemeanor.

(d) The Superior Court has exclusive jurisdiction over a violation of this section.

(85 Del. Laws, c. 276, § 52.)

Subchapter VI

Proceeding to Adjudicate Parentage [Effective Dec. 6, 2026].

Part 1

Nature of Proceeding [Effective Dec. 6, 2026].

§ 8-601. Proceeding authorized [Effective Dec. 6, 2026].

A civil proceeding may be commenced to adjudicate the parentage of a child. Except as otherwise provided in this chapter, the proceeding is governed by the Family Court Rules of Civil Procedure.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 53.)

§ 8-602. Standing to maintain proceeding [Effective Dec. 6, 2026].

Except as otherwise provided in subchapter III of this chapter and §§ 8-608 through 8-611 of this title, a proceeding to adjudicate parentage may be maintained by:

(1) The child;

(2) The individual who gave birth to the child, unless a court has adjudicated that the individual is not a parent;

(3) An individual who is a parent of the child under this chapter;

(4) An individual whose parentage of the child is to be adjudicated;

(5) A child-support agency;

(6) An adoption agency authorized by law of this State other than this chapter or licensed child-placing agency; or

(7) A representative authorized by law of this State other than this chapter to act for an individual who otherwise would be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 54.)

§ 8-603. Notice of proceeding [Effective Dec. 6, 2026].

(a) The petitioner shall give notice of a proceeding to adjudicate parentage to the following individuals:

(1) The individual who gave birth to the child, unless a court has adjudicated that the individual is not a parent;

(2) An individual who is a parent of the child under this chapter;

(3) A presumed, acknowledged, or adjudicated parent of the child; and

(4) An individual whose parentage of the child is to be adjudicated.

(b) An individual entitled to notice under subsection (a) of this section has a right to intervene in the proceeding.

(c) Lack of notice required by subsection (a) of this section does not render a judgment void. Lack of notice does not preclude an individual entitled to notice under subsection (a) of this section from bringing a proceeding under § 8-611(b) of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 55.)

§ 8-604. Personal jurisdiction [Effective Dec. 6, 2026].

(a) The court may adjudicate an individual’s parentage of a child only if the court has personal jurisdiction over the individual.

(b) A court of this State with jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in § 6-201 of this title are satisfied.

(c) Lack of jurisdiction over 1 individual does not preclude the court from making an adjudication of parentage binding on another individual.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 56.)

§ 8-605. Venue [Effective Dec. 6, 2026].

If the court has personal jurisdiction under § 8-604 of this title, venue for a proceeding to adjudicate parentage is proper in any county of this State.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 57.)

Part 2

Special Rules for Proceeding to Adjudicate Parentage [Effective Dec. 6, 2026].

§ 8-606. Admissibility of results of genetic testing [Effective Dec. 6, 2026].

(a) Except as otherwise provided in § 8-502(b) of this title, the court shall admit a report of genetic testing ordered by the court under § 8-503 of this title as evidence of the truth of the facts asserted in the report.

(b) A party may object to the admission of a report described in subsection (a) of this section, not later than 14 days after the party receives the report. The party shall cite specific grounds for exclusion.

(c) A party that objects to the results of genetic testing may call a genetic-testing expert to testify in person or by another method approved by the court. Unless the court orders otherwise, the party offering the testimony bears the expense for the expert testifying.

(d) Admissibility of a report of genetic testing is not affected by whether the testing was performed:

(1) Voluntarily or under an order of the court or a child-support agency; or

(2) Before, on, or after commencement of the proceeding.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, §§ 58, 59.)

§ 8-607. Adjudicating parentage of child with alleged genetic parent [Effective Dec. 6, 2026].

(a) A proceeding to determine whether an alleged genetic parent who is not a presumed parent is a parent of a child may be commenced:

(1) Before the child becomes an adult; or

(2) After the child becomes an adult, but only if the child initiates the proceeding.

(b) This subsection applies in a proceeding described in subsection (a) of this title if the individual who gave birth to the child is the only other individual with a claim to parentage of the child. The court shall adjudicate an alleged genetic parent to be a parent of the child if the alleged genetic parent:

(1) Is identified under § 8-506 of this title as a genetic parent of the child and the identification is not successfully challenged under § 8-506 of this title;

(2) Admits parentage in a pleading, when making an appearance, or during a hearing, the court accepts the admission, and the court determines the alleged genetic parent to be a parent of the child;

(3) Declines to submit to genetic testing ordered by the court or a child-support agency, in which case the court may adjudicate the alleged genetic parent to be a parent of the child even if the alleged genetic parent denies a genetic relationship with the child;

(4) Is in default after service of process and the court determines the alleged genetic parent to be a parent of the child; or

(5) Is neither identified nor excluded as a genetic parent by genetic testing and, based on other evidence, the court determines the alleged genetic parent to be a parent of the child.

(c) Subject to other limitations in this Part, if in a proceeding involving an alleged genetic parent, at least 1 other individual in addition to the individual who gave birth to the child has a claim to parentage of the child, the court shall adjudicate parentage under § 8-613 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, § 5; 85 Del. Laws, c. 276, §§ 58, 60, 73, 76.)

§ 8-608. Adjudicating parentage of child with presumed parent [Effective Dec. 6, 2026].

(a) A proceeding to determine whether a presumed parent is a parent of a child may be commenced:

(1) Before the child becomes an adult; or

(2) After the child becomes an adult, but only if the child initiates the proceeding.

(b) A presumption of parentage under § 8-204 of this title cannot be overcome after the child attains 2 years of age unless the court determines:

(1) The presumed parent is not a genetic parent, never resided with the child, and never held out the child as the presumed parent's child; or

(2) The child has more than 1 presumed parent.

(c) The following rules apply in a proceeding to adjudicate a presumed parent's parentage of a child if the individual who gave birth to the child is the only other individual with a claim to parentage of the child:

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

(2) If the presumed parent is identified under § 8-506 of this title as a genetic parent of the child and that identification is not successfully challenged under § 8-506 of this title, the court shall adjudicate the presumed parent to be a parent of the child.

(3) If the presumed parent is not identified under § 8-506 of this title as a genetic parent of the child and the presumed parent or the individual who gave birth to the child challenges the presumed parent's parentage of the child, the court shall adjudicate the parentage of the child in the best interest of the child based on the factors under § 8-613(a) and (b) of this title.

(d) Subject to other limitations in this Part, if in a proceeding to adjudicate a presumed parent's parentage of a child, another individual in addition to the individual who gave birth to the child asserts a claim to parentage of the child, the court shall adjudicate parentage under § 8-613 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 456, §§ 2, 7; 85 Del. Laws, c. 276, §§ 58, 61.)

§ 8-609. Adjudicating claim of de facto parentage of child [Effective Dec. 6, 2026].

(a) A proceeding to establish parentage of a child under this section may be commenced only by an individual who:

(1) Is alive when the proceeding is commenced; and

(2) Claims to be a de facto parent of the child.

(b) An individual who claims to be a de facto parent of a child must commence a proceeding to establish parentage of a child under this section:

(1) Before the child attains 18 years of age; and

(2) While the child is alive.

(c) The following rules govern standing of an individual who claims to be a de facto parent of a child to maintain a proceeding under this section:

(1) The individual must file an initial verified pleading alleging specific facts that support the claim to parentage of the child asserted under this section. The verified pleading must be served on all parents and legal guardians of the child and any other party to the proceeding.

(2) An adverse party, parent, or legal guardian may file a pleading in response to the pleading filed under paragraph (c)(1) of this section. A responsive pleading must be verified and must be served on parties to the proceeding.

(3) Unless the court finds a hearing is necessary to determine disputed facts material to the issue of standing, the court shall determine, based on the pleadings under paragraphs (c)(1) and (c)(2) of this section, whether the individual has alleged facts sufficient to satisfy by a preponderance of the evidence the requirements of paragraphs (d)(1) through (d)(7) of this section. If the court holds a hearing under this subsection, the hearing must be held on an expedited basis.

(d) In a proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the child, if there is only 1 other individual who is a parent or has a claim to parentage of the child, the court shall adjudicate the individual who claims to be a de facto parent to be a parent of the child if the individual demonstrates by clear-and-convincing evidence that:

(1) The individual resided with the child as a regular member of the child's household for a significant period;

(2) The individual engaged in consistent caretaking of the child;

(3) The individual undertook full and permanent responsibilities of a parent of the child without expectation of financial compensation;

(4) The individual held out the child as the individual's child;

(5) The individual established a bonded and dependent relationship with the child which is parental in nature;

(6) Another parent of the child fostered or supported the bonded and dependent relationship required under paragraph (d)(5) of this section; and

(7) Continuing the relationship between the individual and the child is in the best interest of the child.

(e) Subject to other limitations in this Part, if in a proceeding to adjudicate parentage of an individual who claims to be a de facto parent of the child, there is more than 1 other individual who is a parent or has a claim to parentage of the child and the court determines that the requirements of subsection (d) of this section are satisfied, the court shall adjudicate parentage under § 8-613 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 97, §§ 1-3; 79 Del. Laws, c. 88, § 3; 85 Del. Laws, c. 276, §§ 58, 62.)

§ 8-610. Adjudicating parentage of child with acknowledged parent [Effective Dec. 6, 2026].

(a) If a child has an acknowledged parent, a proceeding to challenge the acknowledgment of parentage or a denial of parentage, brought by a signatory to the acknowledgment or denial, is governed by § § 8-308 and 8-309 of this title.

(b) If a child has an acknowledged parent, the following rules apply in a proceeding to challenge the acknowledgment of parentage or a denial of parentage brought by an individual, other than the child, who has standing under § 8-602 of this title and was not a signatory to the acknowledgment or denial:

(1) The individual must commence the proceeding not later than 2 years after the effective date of the acknowledgment.

(2) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(3) If the court permits the proceeding, the court shall adjudicate parentage under § 8-613 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, §§ 58, 63.)

§ 8-611. Adjudicating parentage of child with adjudicated parent [Effective Dec. 6, 2026].

(a) If a child has an adjudicated parent, a proceeding to challenge the adjudication, brought by an individual who was a party to the adjudication or received notice under § 8-603 of this title, is governed by the rules governing a collateral attack on a judgment.

(b) If a child has an adjudicated parent, the following rules apply to a proceeding to challenge the adjudication of parentage brought by an individual, other than the child, who has standing under § 8-602 of this title and was not a party to the adjudication and did not receive notice under § 8-603 of this title:

(1) The individual must commence the proceeding not later than 2 years after the effective date of the adjudication.

(2) The court may permit the proceeding only if the court finds permitting the proceeding is in the best interest of the child.

(3) If the court permits the proceeding, the court shall adjudicate parentage under § 8-613 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, §§ 58, 64.)

§ 8-612. Adjudicating parentage of child of assisted reproduction [Effective Dec. 6, 2026].

(a) An individual who is a parent under subchapter VII of this chapter or the individual who gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines the individual is a parent under subchapter VII of this chapter, the court shall adjudicate the individual to be a parent of the child.

(b) In a proceeding to adjudicate an individual's parentage of a child, if another individual other than the individual who gave birth to the child is a parent under subchapter VII of this chapter, the court shall adjudicate the individual's parentage of the child under § 8-613 of this title.

(85 Del. Laws, c. 276, §§ 58, 65.)

§ 8-613. Adjudicating competing claims of parentage [Effective Dec. 6, 2026].

(a) In a proceeding to adjudicate competing claims of, or challenges under § 8-608(c) of this title, § 8-610 of this title, or § 8-611 of this title to, parentage of a child by 2 or more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

(1) The age of the child;

(2) The length of time during which each individual assumed the role of parent of the child;

(3) The nature of the relationship between the child and each individual;

(4) The harm to the child if the relationship between the child and each individual is not recognized;

(5) The basis for each individual's claim to parentage of the child; and

(6) Other equitable factors arising from the disruption of the relationship between the child and each individual or the likelihood of other harm to the child.

(b) If an individual challenges parentage based on the results of genetic testing, in addition to the factors listed in subsection (a) of this section, the court shall consider:

(1) The facts surrounding the discovery the individual might not be a genetic parent of the child; and

(2) The length of time between the time that the individual was placed on notice that the individual might not be a genetic parent and the commencement of the proceeding.

(c) (1) The court may adjudicate a child to have more than 2 parents under this chapter if the court finds that failure to recognize more than 2 parents would be detrimental to the child.

(2) A finding of detriment to the child under paragraph (c)(1) of this section does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage.

(3) In determining detriment to the child under paragraph (c)(1) of this section, the court shall consider all relevant factors, including the harm if the child is removed from a stable placement with an individual who has fulfilled the child's physical needs and psychological needs for care and affection and has assumed the role for a substantial period.

(85 Del. Laws, c. 276, § 66.)

Part 3

Hearings and Adjudication [Effective Dec. 6, 2026].

§ 8-615. Temporary order [Effective Dec. 6, 2026].

(a) In a proceeding under this subchapter, the court shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

(1) A presumed father of the child;

(2) Petitioning to have paternity adjudicated;

(3) Identified as the father through genetic testing under § 8-505 of this title;

(4) An alleged father who has declined to submit to genetic testing;

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

(6) The mother of the child.

(b) A temporary order may include provisions for custody and visitation as provided by other law of this State.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, §§ 67, 72.)

§ 8-616. Combining proceedings [Effective Dec. 6, 2026].

Unless the court would not otherwise have jurisdiction over the proceeding, the court may combine a proceeding to adjudicate parentage under this chapter with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, declaration of invalidity, administration of an estate, or other appropriate proceeding.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 67.)

§ 8-617. Proceeding before birth [Effective Dec. 6, 2026].

(a) Except as provided in Part 3 of subchapter VIII of this chapter and subject to subsections (b) and (c) of this section, a proceeding to adjudicate parentage may be commenced before the birth of the child, but may not be concluded until after the birth of the child.

(b) If a child is conceived through assisted reproduction, an order or judgment may be entered before the birth of the resulting child to establish a parent-child relationship, if enforcement of the order or judgment is stayed until the birth of the child. The order or judgment must be sought by filing a petition containing all of the following:

(1) The names and addresses of the intended parents;

(2) The name and address of the gestational carrier, if any, and the gestational carrier's spouse, if any; and

(3) An affidavit that does the following:

a. Acknowledges parentage verified by the parents; and

b. In cases involving a gestational carrier:

1. Acknowledges nonparentage verified by the gestational carrier and the gestational carrier's spouse, if any; and

2. Attests to the gestational carrier agreement signed by all the parties in accordance with § 8-811 of this title.

(c) Except in circumstances under subsection (b) of this section, the following actions may be taken before the birth of a child:

(1) Service of process;

(2) Discovery; and

(3) Except as prohibited by § 8-503 of this title, collection of specimens for genetic testing.

(74 Del. Laws, c. 136, § 1; 79 Del. Laws, c. 88, § 4; 85 Del. Laws, c. 276, § 67.)

§ 8-618. Child as party; representation [Effective Dec. 6, 2026].

(a) A minor child is a permissive party but not a necessary party to a proceeding under this subchapter.

(b) The court shall appoint a guardian ad litem to represent a child in a proceeding under this subchapter, if the court finds that the interests of the child are not adequately represented.

(74 Del. Laws, c. 136, § 1; 77 Del. Laws, c. 456, § 4; 85 Del. Laws, c. 276, § 67.)

§ 8-619. Court to adjudicate parentage [Effective Dec. 6, 2026].

The court shall adjudicate parentage of a child without a jury.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, §§ 67, 74.)

§ 8-620. Dismissal for want of prosecution [Effective Dec. 6, 2026].

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

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, §§ 68, 69, 77.)

§ 8-621. Order adjudicating parentage [Effective Dec. 6, 2026].

(a) An order adjudicating parentage must identify the child in a manner provided by law of this State other than this chapter.

(b) Except as otherwise provided in subsection (c) of this section, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this subchapter. Attorney's fees awarded under this subsection may be paid directly to the attorney, and the attorney may enforce the order in the attorney's own name.

(c) The court may not assess fees, costs, or expenses in a proceeding under this subchapter against a child-support agency of this State or another state, except as provided by law of this State other than this chapter.

(d) In a proceeding under this subchapter or under § 513 of this title, a copy of a bill for genetic testing or prenatal or postnatal health care for the individual who gave birth to the child and the child, provided to the adverse party not later than 10 days before a hearing, is admissible to establish:

(1) The amount of the charge billed; and

(2) That the charge is reasonable and necessary.

(e) On request of a party and for good cause, the court in a proceeding under this subchapter may order the name of the child changed. If the court order changing the name varies from the name on the birth certificate of the child, the court shall order the Office of Vital Statistics to issue an amended birth certificate.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 5; 85 Del. Laws, c. 276, §§ 68, 70, 78.)

§ 8-622. Binding effect of determination of parentage [Effective Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section:

(1) A signatory to an acknowledgment of parentage or denial of parentage is bound by the acknowledgment and denial as provided in subchapter III of this chapter; and

(2) A party to an adjudication of parentage by a court acting under circumstances that satisfy the jurisdiction requirements of § 6-201 of this title and any individual who received notice of the proceeding are bound by the adjudication.

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

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

(2) The determination was based on a finding consistent with the results of genetic testing, and the consistency is declared in the determination or otherwise shown;

(3) The determination of parentage was made under subchapter VII or VIII of this chapter; or

(4) The child was a party or was represented by a guardian ad litem in the proceeding.

(c) In a proceeding for divorce, dissolution, annulment, or declaration of invalidity, the court is deemed to have made an adjudication of parentage of a child if the court acts under circumstances that satisfy the jurisdiction requirements of § 6-201 of this title and the final order:

(1) Expressly identifies the child as a “child of the marriage” or “issue of the marriage” or includes similar words indicating that both spouses are parents of the child; or

(2) Provides for support of the child by a spouse unless that spouse’s parentage is disclaimed specifically in the order.

(d) Except as otherwise provided in subsection (b) of this section or § 8-611 of this title, a determination of parentage may be asserted as a defense in a subsequent proceeding seeking to adjudicate parentage of an individual who was not a party to the earlier proceeding.

(e) A party to an adjudication of parentage may challenge the adjudication only under law of this State other than this chapter relating to appeal, vacation of judgment, or other judicial review.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, §§ 68, 71, 79.)

§ 8-623. No right to reimbursement [Effective Dec. 6, 2026].

If the court determines that an individual is not the parent of a child, the individual does not have a right to reimbursement for any child support or medical expenses paid before the date on which the other party or the public agency to which the payments were or are being made was served with notice of the proceeding in which the determination of nonparentage was made.

(74 Del. Laws, c. 136, §§ 68, 72, 80; 85 Del. Laws, c. 276, §§ 68, 72, 80.)

§ 8-624. Full faith and credit [Effective Dec. 6, 2026].

A court of this State shall give full faith and credit to a determination of parentage or nonparentage or denial of parentage made by a court or administrative agency of another state if the determination is made in compliance with the law of the other state.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 81.)

Subchapter VII

Child of Assisted Reproduction [Effective Dec. 6, 2026].

§ 8-701. Scope of article [Effective Dec. 6, 2026].

This subchapter does not apply to the birth of a child conceived by sexual intercourse or assisted reproduction under a surrogacy agreement under subchapter VIII of this chapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 82.)

§ 8-702. Parental status of donor [Effective Dec. 6, 2026].

A donor is not a parent of a child conceived by assisted reproduction.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 83.)

§ 8-703. Parentage of a child of assisted reproduction [Effective Dec. 6, 2026].

An individual who consents under § 8-704 of this title to assisted reproduction with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 6; 85 Del. Laws, c. 276, § 84.)

§ 8-704. Consent to assisted reproduction [Effective Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section, the consent described in § 8-703 of this title must be in a record signed by an individual giving birth to a child conceived by assisted reproduction and another individual who intends to be a parent of the child.

(b) Failure to consent in a record as required by subsection (a) of this section, before, on, or after birth of the child, does not preclude the court from finding consent to parentage if:

(1) The individual giving birth to the child or the other individual proves by clear-and-convincing evidence the existence of an express agreement entered into before transfer of gametes or embryos that the individual giving birth to the child and the other individual intended that both would be parents of the child; or

(2) For the first 2 years of the child's life, including any period of temporary absence, the individual giving birth to the child and the other individual resided together in the same household with the child and both openly held out the child as the child of the other individual, unless the other individual dies or becomes incapacitated before the child attains 2 years of age or the child dies before the child attains 2 years of age, in which case the court may find consent under this subsection to parentage if a party proves by clear-and-convincing evidence that the individual giving birth to the child and the other individual intended to reside together in the same household with the child and both intended the other individual would openly hold out the child as the child of the other individual, but the other individual was prevented from carrying out that intent by death or incapacity.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 88, § 7; 85 Del. Laws, c. 276, § 85.)

§ 8-705. Limitation on spouse's dispute of parentage [Effective Dec. 6, 2026].

(a) Except as otherwise provided in subsection (b) of this section, an individual who, at the time of a child's birth, is the spouse of the individual who gave birth to a child by assisted reproduction may not challenge the individual's parentage of the child unless:

(1) Not later than 2 years after the birth of the child, the individual commences a proceeding to adjudicate the individual's parentage of the child; and

(2) The court finds that the individual did not consent to the assisted reproduction, before, on, or after birth of the child, or withdrew consent under § 8-707 of this title.

(b) A proceeding to adjudicate a spouse's parentage of a child born by assisted reproduction may be maintained at any time if the court determines:

(1) The spouse neither provided a gamete for, nor consented to, the assisted reproduction;

(2) The spouse and the individual who gave birth to the child have not cohabited since the probable time of assisted reproduction; and

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

(c) This section applies to a spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted reproduction occurs.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 86.)

§ 8-706. Effect of certain legal proceedings regarding marriage [Effective Dec. 6, 2026].

If a marriage of an individual who gives birth to a child conceived by assisted reproduction is terminated through divorce or dissolution, declared invalid, or annulled before transfer of gametes or embryos to the individual, a former spouse of the individual is not a parent of the child unless the former spouse consented in a record that the former spouse would be a parent of the child if assisted reproduction were to occur after a divorce, dissolution, annulment, or declaration of invalidity, and the former spouse did not withdraw consent under § 8-707 of this title.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 87.)

§ 8-707. Withdrawal of consent [Effective Dec. 6, 2026].

(a) An individual who consents under § 8-704 of this title to assisted reproduction may withdraw consent any time before a transfer that results in a pregnancy, by giving notice in a record of the withdrawal of consent to the individual who agreed to give birth to a child conceived by assisted reproduction and to any clinic or health-care provider facilitating the assisted reproduction. Failure to give notice to the clinic or health-care provider does not affect a determination of parentage under this chapter.

(b) An individual who withdraws consent under subsection (a) of this section is not a parent of the child under this subchapter.

(74 Del. Laws, c. 136, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 88.)

§ 8-708. Parental status of deceased individual [Effective Dec. 6, 2026].

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

(b) If an individual who consented in a record to assisted reproduction by an individual who agreed to give birth to a child dies before a transfer of gametes or embryos, the deceased individual is a parent of a child conceived by the assisted reproduction only if:

(1) Either:

a. The individual consented in a record that if assisted reproduction were to occur after the death of the individual, the individual would be a parent of the child; or

b. The individual's intent to be a parent of a child conceived by assisted reproduction after the individual's death is established by clear-and-convincing evidence; and

(2) Either:

a. The embryo is in utero not later than 36 months after the individual's death; or

b. The child is born not later than 45 months after the individual's death.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, § 89.)

Subchapter VIII

Gestational and Genetic Carrier Agreement Act [Effective Dec. 6, 2026].

Part 1

General Requirements [Effective Dec. 6, 2026].

§ 8-801. Short title [Effective Dec. 6, 2026].

This subchapter may be cited as the "Gestational and Genetic Carrier Agreement Act."

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-802. Definitions [Effective Dec. 6, 2026].

In this subchapter:

(1) "Genetic carrier" means an individual who is not an intended parent and who agrees to become pregnant through assisted reproduction using the individual's own gamete with the intention of gestating and delivering the intended parent's child.

(2) "Genetic carrier agreement" means a written agreement between the genetic carrier, the genetic carrier's spouse or partner, if any, and the intended parent, under which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.

(3) "Genetic carrier arrangement" means the process by which an individual attempts to carry and give birth to a child created through assisted reproduction using the individual's own gamete and a gamete provided by the intended parents which may or may not be genetically related to either of the intended parents.

(4) "Gestational carrier" means a individual who is neither an intended parent nor a donor, who agrees to become pregnant for an intended parent by assisted reproduction with the intention of gestating and delivering the intended parent's child.

(5) "Gestational carrier agreement" means a written agreement between the gestational carrier, the gestational carrier's spouse or partner, if any, and the intended parent, under which the intended parent agrees to become the parent of the child resulting from the assisted reproduction.

(6) "Gestational carrier arrangement" means the process by which an individual attempts to carry and give birth to a child created through assisted reproduction using the gamete provided by the intended parents which may or may not be genetically related to either of the intended parents, and to which the gestational carrier has made no genetic contribution.

(7) "Health care provider" means an individual who is duly licensed to provide health care, including all medical, psychological, or counseling professionals.

(8) "Physician" means an individual licensed to practice medicine in any or all of its branches in this State.

(85 Del. Laws, c. 276, § 90.)

§ 8-803. Scope and purpose [Effective Dec. 6, 2026].

(a) The purpose of this subchapter is to establish consistent standards and procedural safeguards for the protection of all parties to a gestational or genetic carrier agreement in this State and to confirm the legal status of children born as a result of these agreements.

These standards and safeguards are meant to facilitate the use of this type of reproductive agreement in accordance with the public policy of this State.

(b) This subchapter does not apply to the birth of a child conceived by means of sexual intercourse.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-804. Bases for jurisdiction over nonresident [Effective Dec. 6, 2026].

In a proceeding to enforce a gestational or genetic carrier agreement, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with notice within this State;

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

(3) The individual resided in this State at the time the individual executed the gestational or genetic carrier agreement or consented to the embryo transfer;

(4) The individual executed a gestational or genetic carrier agreement with an individual who resided in this State at the time the gestational or genetic carrier agreement was executed and voluntarily submitted to the jurisdiction of this State in the gestational or genetic carrier agreement;

(5) The nonresident gestational or genetic carrier had, or is expected to have an embryo transfer performed in this State under a gestational or genetic carrier agreement;

(6) The nonresident intended parents consented to a gestational carrier having an embryo transfer in this State under a gestational carrier agreement;

(7) The nonresident intended parents consented to a genetic carrier undergoing assisted reproduction in this State under a genetic carrier agreement;

(8) The child was, or is expected to be born in this State as demonstrated by a provision in the gestational or genetic carrier agreement;

(9) The child resides in this State as a result of the acts or directives of the individual; or

(10) There is any other basis consistent with the Constitutions of this State and the United States for the exercise of personal jurisdiction.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-805. Effect of subsequent change of marital status [Effective Dec. 6, 2026].

(a) Unless a gestational or genetic carrier agreement expressly provides otherwise:

(1) The marriage of a gestational or genetic carrier after the agreement is signed by all parties does not affect the validity of the agreement, the consent of the gestational or genetic carrier's spouse to the agreement is not required, and the gestational or genetic carrier's spouse is not a presumed parent of a child conceived by assisted reproduction under the agreement; and

(2) The divorce, dissolution, annulment, or declaration of invalidity of the marriage of the gestational or genetic carrier after the agreement is signed by all parties does not affect the validity of the agreement.

(b) Unless a gestational or genetic carrier agreement expressly provides otherwise:

(1) The marriage of an intended parent after an agreement is signed by all parties does not affect the validity of a gestational or genetic carrier agreement, the consent of the spouse of the intended parent is not required, and the spouse of the intended parent is not, based on the agreement, a parent of the child conceived by assisted reproduction under the agreement; and

(2) The divorce, dissolution, annulment, or declaration of invalidity of an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in § 8-817 of this title, the intended parents are the parents of the child.

(85 Del. Laws, c. 276, § 90.)

§ 8-806. Gestational and genetic carrier agreements: parentage of deceased intended parent [Effective Dec. 6, 2026].

(a) Section 8-811 of this title applies to an intended parent under a gestational carrier agreement even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(b) Except as otherwise provided in § 8-818, § 8-819, or § 8-820 of this title, on birth of a child conceived by assisted reproduction under a genetic carrier agreement, each intended parent is, by operation of law, a parent of the child, notwithstanding the death of an intended parent during the period between the transfer of a gamete or embryo and the birth of the child.

(c) Except as otherwise provided in § 8-811, § 8-818, § 8-819, or § 8-820 of this title, an intended parent is not a parent of a child conceived by assisted reproduction under a gestational or genetic carrier agreement if the intended parent dies before the transfer of a gamete or embryo unless:

(1) The agreement provides otherwise; and

(2) The transfer of the gamete or embryo occurs not later than 36 months after the death of the intended parent, or birth of the child occurs not later than 45 months after the death of the intended parent.

(85 Del. Laws, c. 276, § 90.)

§ 8-807. Inspection of documents [Effective Dec. 6, 2026].

Notwithstanding § 1063 of Title 10 and unless the court orders otherwise, a petition and any other document related to a gestational or genetic carrier agreement filed with the court under this part are not open to inspection by any individual other than the parties to the proceeding, a child conceived by assisted reproduction under the agreement, their attorneys, and the Department of Health and Social Services. A court may not authorize an individual to inspect a document related to the agreement, unless required by exigent circumstances. The individual seeking to inspect the document may be required to pay the expense of preparing a copy of the document to be inspected.

(85 Del. Laws, c. 276, § 90.)

Part 2

Special Rules for Gestational Carrier Agreements [Effective Dec. 6, 2026].

§ 8-808. Parental status of gestational carrier [Effective Dec. 6, 2026].

A gestational carrier is not a parent of a child born as a result of a gestational carrier arrangement.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-809. Rights and responsibilities of parents under a gestational carrier agreement [Effective Dec. 6, 2026].

(a) An individual who is considered to be the parent of a child under this chapter has all the rights, responsibilities, and obligations set forth in Chapter 7 of this title.

(b) The breach of the gestational carrier agreement by the intended parents does not relieve the intended parents of the support obligations imposed by this chapter.

(c) If a laboratory error occurs in which the child conceived through means other than sexual intercourse is not genetically related to either of the intended parents, when the intent was for the child to be genetically related to 1 or both intended parents, the intended parents are the parents of the child unless otherwise determined by a court of competent jurisdiction in an action which can only be brought by 1 or more of the genetic parents within 60 days of the date of the child's birth.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-810. Eligibility to enter a gestational carrier agreement [Effective Dec. 6, 2026].

(a) Before executing an agreement to act as a gestational carrier, an individual must meet all of the following requirements:

(1) Be at least 21 years of age.

(2) Have given birth to at least 1 child.

(3) Have completed a medical evaluation.

(4) Have completed a mental health evaluation.

(5) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the gestational carrier agreement and been advised of the potential legal consequences of the gestational carrier arrangement. The legal counsel must be paid for by the intended parents, if requested by the gestational carrier.

(6) Have or obtain before the embryo transfer a health insurance policy that covers major medical treatments and hospitalization and that has a term that extends throughout the duration of the expected pregnancy and for 8 weeks after the birth of the child. The health insurance policy may be procured by the intended parents on behalf of the gestational carrier under the gestational carrier agreement.

(b) An individual intending to become a parent, whether genetically related to the child or not, must meet the following requirements at the time the gestational carrier agreement is executed:

(1) Have completed a mental health evaluation; and

(2) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier arrangement.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 90.)

§ 8-811. Requirements for a gestational carrier agreement [Effective Dec. 6, 2026].

(a) A gestational carrier agreement is enforceable if:

(1) It meets the requirements set forth in subsection (b) of this section, and

(2) It contains at a minimum each of the terms set forth in subsection (c) of this section.

(b) A gestational carrier agreement must meet the following requirements:

(1) Be in writing;

(2) Be executed before the initiation of an embryo transfer in furtherance of the gestational carrier arrangement by the following, who have been represented in all matters concerning the gestational carrier arrangement and the gestational carrier agreement by independent legal counsel licensed to practice law in this State:

a. A gestational carrier meeting the eligibility requirements of § 8-810(a) of this title and, if married, the gestational carrier's spouse; and

b. The intended parents meeting the eligibility requirements of § 8-810(b) of this title. If an intended parent is married or a party to a civil union, both spouses must execute the gestational carrier agreement;

(3) [Repealed.]

(4) Include a written acknowledgment, signed by the gestational carrier and intended parents, stating that the gestational carrier and intended parents received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the gestational carrier agreement;

(5) If the gestational carrier agreement provides for the payment of compensation to the gestational carrier, require that the compensation be placed in escrow with an independent escrow agent pursuant to an escrow agreement before the gestational carrier's commencement of any medical procedure, other than medical or mental health evaluations necessary to determine the gestational carrier's eligibility under § 8-810(a) of this title; and

(6) Be witnessed by 2 disinterested, competent adults.

(c) A gestational carrier agreement must expressly provide the following:

(1) The written agreement of the gestational carrier to:

a. Undergo embryo transfer and attempt to carry and give birth to the child; and

b. Surrender custody of the child to the intended parents immediately on the birth of the child;

(2) If the gestational carrier is married, that the gestational carrier's spouse:

a. Acknowledges and agrees to abide by the obligations imposed on the gestational carrier by the terms of the gestational carrier agreement; and

b. Surrenders custody of the child to the intended parents immediately on the birth of the child;

(3) The right of the gestational carrier to utilize the services of a health care provider of the gestational carrier's choosing, after consultation with the intended parents, to provide the gestational carrier's care during the pregnancy; and

(4) The written agreement of the intended parents to:

a. Accept legal custody of the child immediately on the birth of the child; and

b. Assume sole responsibility for the child immediately on the birth of the child.

(d) A gestational carrier agreement is enforceable even though it contains 1 or more of the following provisions:

(1) The gestational carrier's agreement to undergo all medical exams, treatments, and fetal monitoring procedures that the physician recommends for the success of the pregnancy;

(2) The gestational carrier's agreement to abstain from any activities that the intended parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child, including smoking, drinking alcohol, using nonprescribed drugs, using prescription drugs not authorized by a physician aware of the gestational carrier's pregnancy, exposure to radiation, or any other activities proscribed by a health care provider;

(3) The agreement of the intended parents to pay the gestational carrier reasonable compensation; and

(4) The agreement of the intended parents to pay for or reimburse the gestational carrier for reasonable expenses, including medical, legal, or other professional expenses, related to the gestational carrier arrangement and the gestational carrier agreement.

(e) If any of the requirements of this section are not met, a court of competent jurisdiction shall determine parentage based on evidence of the parties' intent.

(f) An escrow agent which enters into an escrow agreement with a party to a gestational carrier agreement which is governed by Delaware law, or with a Delaware resident who is a party to a gestational carrier agreement, consents to the jurisdiction of the Delaware courts for all proceedings related to the enforcement of the escrow agreement.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 90.)

§ 8-812. Effect of noncompliance with gestational carrier agreement [Effective Dec. 6, 2026].

Except as otherwise provided in this chapter, if a party does not comply with the requirements of this subchapter, a court of competent jurisdiction shall determine the respective rights and obligations of the parties.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-813. Remedies [Effective Dec. 6, 2026].

(a) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the intended parents are entitled to all remedies available at law or equity.

(b) Except as expressly provided in the gestational carrier agreement and subsection (c) of this section, the gestational carrier is entitled to all remedies available at law or equity.

(c) Specific performance is not an available remedy for a breach by the gestational carrier of a gestational carrier agreement term that requires the gestational carrier to be impregnated.

(79 Del. Laws, c. 88, § 8; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 90.)

Part 3

Special Rules for Genetic Carrier Agreements [Effective Dec. 6, 2026].

(85 Del. Laws, c. 276, § 90.)

§ 8-814. Eligibility to enter into a genetic carrier agreement [Effective Dec. 6, 2026].

(a) Before executing an agreement to act as a genetic carrier, an individual must meet all of the following requirements:

(1) Be at least 21 years of age.

(2) Have given birth to at least 1 child.

(3) Have completed a medical evaluation.

(4) Have completed a mental health evaluation.

(5) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the genetic carrier agreement and been advised of the potential legal consequences of the genetic carrier arrangement. The legal counsel must be paid for by the intended parents, if requested by the genetic carrier.

(6) Have or obtain before the embryo transfer a health insurance policy that covers major medical treatments and hospitalization and that has a term that extends throughout the duration of the expected pregnancy and for 8 weeks after the birth of the child. The health insurance policy may be procured by the intended parents on behalf of the genetic carrier under the genetic carrier agreement.

(b) An individual intending to become a parent, whether genetically related to the child or not, must meet the following requirements at the time the genetic carrier agreement is executed:

(1) Have completed a mental health evaluation; and

(2) Have been represented by independent legal counsel licensed to practice law in this State regarding the terms of the genetic carrier agreement and have been advised of the potential legal consequences of the genetic carrier arrangement.

(85 Del. Laws, c. 276, § 90.)

§ 8-815. Requirements for a genetic carrier agreement [Effective Dec. 6, 2026].

(a) A genetic carrier agreement is enforceable if:

(1) It meets the requirements set forth in subsection (b) of this section; and

(2) It contains, at a minimum, each of the terms set forth in subsection (c) of this section.

(b) A genetic carrier agreement must meet the following requirements:

(1) Be in writing;

(2) Be executed before the initiation of assisted reproduction in furtherance of the genetic carrier arrangement by the following, who have been represented in all matters concerning the genetic carrier arrangement and the genetic carrier agreement:

a. A genetic carrier meeting the eligibility requirements of § 8-814(a) of this title and, if married, the genetic carrier's spouse; and

b. The intended parents meeting the eligibility requirements of § 8-814(b) of this title. If an intended parent is married or a party to a civil union, both spouses must execute the genetic carrier agreement;

(3) Include a written acknowledgment, signed by the genetic carrier and intended parents, stating that the genetic carrier and intended parents received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the genetic carrier agreement;

(4) If the genetic carrier agreement provides for the payment of compensation to the genetic carrier, require that the compensation be placed in escrow with an independent escrow agent pursuant to an escrow agreement before the genetic carrier's commencement of any medical procedure, other than medical or mental health evaluations necessary to determine the genetic carrier's eligibility under § 8-814(a) of this title; and

(5) Be witnessed by 2 disinterested, competent adults.

(c) A genetic carrier agreement must expressly provide the following:

(1) The written agreement of the genetic carrier to:

a. Undergo assisted reproduction using the genetic carrier's own gamete and attempt to carry and give birth to the child; and

b. Surrender custody of the child to the intended parents immediately on the birth of the child;

(2) If the genetic carrier is married, that the genetic carrier's spouse:

a. Acknowledges and agrees to abide by the obligations imposed on the genetic carrier by the terms of the genetic carrier agreement; and

b. Surrenders custody of the child to the intended parents immediately on the birth of the child;

(3) The right of the genetic carrier to utilize the services of a health care provider of the genetic carrier's choosing, after consultation with the intended parents, to provide the genetic carrier's care during the pregnancy; and

(4) The written agreement of the intended parents to:

a. Accept legal custody of the child immediately on birth of the child; and

b. Assume sole responsibility for the child immediately on birth of the child.

(d) A genetic carrier agreement is enforceable even though it contains 1 or more of the following provisions:

(1) The genetic carrier's agreement to undergo all medical exams, treatments, and fetal monitoring procedures that the physician recommends for the success of the pregnancy;

(2) The genetic carrier's agreement to abstain from any activities that the intended parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child, including smoking, drinking alcohol, using nonprescribed drugs, using prescription drugs not authorized by a physician aware of the genetic carrier's pregnancy, exposure to radiation, or any other activities proscribed by a health care provider;

(3) The agreement of the intended parents to pay the genetic carrier reasonable compensation; and

(4) The agreement of the intended parents to pay for or reimburse the genetic carrier for reasonable expenses, including medical, legal, or other professional expenses, related to the genetic carrier arrangement and the genetic carrier agreement.

(e) An escrow agent which enters into an escrow agreement with a party to a genetic carrier agreement which is governed by Delaware law, or with a Delaware resident who is a party to a genetic carrier agreement, consents to the jurisdiction of the Delaware courts for all proceedings related to the enforcement of the escrow agreement.

(85 Del. Laws, c. 276, § 90.)

§ 8-816. Requirements to validate genetic carrier agreement [Effective Dec. 6, 2026].

(a) Except as otherwise provided in § 8-820 of this title, to be enforceable, a genetic carrier agreement must be validated by the court. A proceeding to validate the agreement must be commenced before assisted reproduction related to the genetic carrier agreement.

(b) The court shall issue an order validating the genetic carrier agreement if the court finds that:

(1) Sections 8-814 and 8-815 of this title are satisfied; and

(2) All parties entered into the agreement voluntarily and understand its terms.

(c) An individual who terminates under § 8-817 of this title a genetic carrier agreement shall file notice of the termination with the court. On receipt of the notice, the court shall vacate any order issued under subsection (b) of this section. An individual who does not notify the court of the termination of the agreement is subject to sanctions.

(85 Del. Laws, c. 276, § 90.)

§ 8-817. Termination of genetic carrier agreement [Effective Dec. 6, 2026].

(a) A party to a genetic carrier agreement may terminate the agreement as follows:

(1) An intended parent who is a party to the agreement may terminate the agreement at any time before a gamete or embryo transfer by giving notice of termination in a record to all other parties. If a gamete or embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer. The notice of termination must be attested by a notarial officer or witnessed.

(2) A genetic carrier who is a party to the agreement may withdraw consent to the agreement any time before 72 hours after the birth of a child conceived by assisted reproduction under the agreement. To withdraw consent, the genetic carrier must execute a notice of termination in a record stating the genetic carrier's intent to terminate the agreement. The notice of termination must be attested by a notarial officer or witnessed and be delivered to each intended parent any time before 72 hours after the birth of the child.

(b) On termination of the genetic carrier agreement under subsection (a) of this section, the parties are released from all obligations under the agreement except that each intended parent remains responsible for all expenses incurred by the genetic carrier through the date of termination which are reimbursable under the genetic carrier agreement. Unless the genetic carrier agreement provides otherwise, the genetic carrier is not entitled to any nonexpense-related compensation paid for serving as a genetic carrier.

(c) Except in a case involving fraud, neither a genetic carrier nor the carrier's spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or liquidated damages, for terminating a genetic carrier agreement under this section.

(85 Del. Laws, c. 276, § 90.)

§ 8-818. Parentage under validated genetic carrier agreement [Effective Dec. 6, 2026].

(a) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate a genetic carrier agreement, each intended parent is a parent of a child conceived by assisted reproduction under an agreement validated under § 8-816 of this title.

(b) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate the genetic carrier agreement, on proof of a court order issued under § 8-816 of this title validating the agreement, the court shall make an order:

(1) Declaring that each intended parent is a parent of a child conceived by assisted reproduction under the agreement and ordering that parental rights and duties vest exclusively in each intended parent;

(2) Declaring that the genetic carrier and the genetic carrier's spouse or former spouse, if any, are not parents of the child;

(3) Designating the contents of the birth certificate in accordance with subchapter II of Chapter 31 of Title 16 and directing the Office of Vital Statistics to designate each intended parent as a parent of the child;

(4) To protect the privacy of the child and the parties, declaring that the court record is not open to inspection except as authorized under § 8-807 of this title;

(5) If necessary, that the child be surrendered to the intended parents; and

(6) For other relief the court determines necessary and proper.

(c) If a genetic carrier terminates under § 8-817(a)(2) of this title a genetic carrier agreement, parentage of the child conceived by assisted reproduction under the agreement must be determined under subchapters I through VI of this chapter.

(d) If a child born to a genetic carrier is alleged not to have been conceived by assisted reproduction, the court shall order genetic testing to determine the genetic parentage of the child. If the child was not conceived by assisted reproduction, parentage must be determined under subchapter I through VI of this chapter. Unless the genetic carrier agreement provides otherwise, if the child was not conceived by assisted reproduction the genetic carrier is not entitled to any nonexpense-related compensation paid for serving as a genetic carrier.

(e) Unless a genetic carrier exercises the right under § 8-817 of this title to terminate the genetic carrier agreement, if an intended parent fails to file notice required under § 8-817(a) of this title, the genetic carrier or Department of Health and Social Services may file with the court, not later than 60 days after the birth of a child conceived by assisted reproduction under the agreement, notice that the child has been born to the genetic carrier. Unless the genetic carrier has properly exercised the right under § 8-817 of this title to withdraw consent to the agreement, on proof of a court order issued under § 8-816 of this title validating the agreement, the court shall order that each intended parent is a parent of the child.

(85 Del. Laws, c. 276, § 90.)

§ 8-819. Rights and responsibilities of parents under a genetic carrier agreement [Effective Dec. 6, 2026].

(a) An individual who is considered to be the parent of a child under this chapter has all the rights, responsibilities, and obligations set forth in Chapter 7 of this title.

(b) The breach of the genetic carrier agreement by the intended parents does not relieve the intended parents of the support obligations imposed by this chapter.

(c) If a laboratory error in which the child conceived through means other than sexual intercourse is not genetically related to either of the intended parents, when the intent was for the child to be genetically related to 1 of the intended parents, the intended parents are the parents of the child unless otherwise determined by a court of competent jurisdiction in an action which can only be brought by 1 or more of the genetic parents within 60 days of the date of the child's birth.

(85 Del. Laws, c. 276, § 90.)

§ 8-820. Effect of nonvalidated genetic carrier agreement [Effective Dec. 6, 2026].

(a) A genetic carrier agreement, whether or not in a record, that is not validated under § 8-816 of this title is enforceable only to the extent provided in this section and § 8-821 of this title.

(b) If all parties agree, a court may validate a genetic carrier agreement after assisted reproduction has occurred but before the birth of a child conceived by assisted reproduction under the agreement.

(c) If a child conceived by assisted reproduction under a genetic carrier agreement that is not validated under § 8-816 of this title is born and the genetic carrier, consistent with § 8-817(a)(2) of this title, withdraws the genetic carrier's consent to the agreement before 72 hours after the birth of the child, the court shall adjudicate the parentage of the child under subchapters I through VI of this chapter.

(d) If a child conceived by assisted reproduction under a genetic carrier agreement that is not validated under § 8-816 of this title is born and a genetic carrier does not withdraw the genetic carrier's consent to the agreement, consistent with § 8-817(a)(2) of this title, before 72 hours after the birth of the child, the genetic carrier is not automatically a parent and the court shall adjudicate parentage of the child based on the best interest of the child, taking into account the factors in § 8-613(a) of this title and the intent of the parties at the time of the execution of the agreement.

(e) The parties to a genetic carrier agreement have standing to maintain a proceeding to adjudicate parentage under this section.

(85 Del. Laws, c. 276, § 90.)

§ 8-821. Breach of genetic carrier agreement [Effective Dec. 6, 2026].

(a) Subject to § 8-816(b) of this title, if a genetic carrier agreement is breached by a genetic carrier or 1 or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity.

(b) Specific performance is not a remedy available for breach by a genetic carrier of a requirement of a validated or nonvalidated genetic carrier agreement that the genetic carrier be impregnated, terminate or not terminate a pregnancy, or submit to medical procedures.

(c) Except as otherwise provided in subsection (b) of this section, specific performance is a remedy available for:

(1) Breach of a validated genetic carrier agreement by a genetic carrier of a requirement which prevents an intended parent from exercising the full rights of parentage 72 hours after the birth of the child; or

(2) Breach by an intended parent which prevents the intended parent's acceptance of duties of parentage 72 hours after the birth of the child.

(85 Del. Laws, c. 276, § 90.)

Part 4

Miscellaneous Provisions [Effective Dec. 6, 2026].

§ 8-822. Immunities [Effective Dec. 6, 2026].

Except as provided in this subchapter, an individual is not liable for nonnegligent actions taken under the requirements of this subchapter.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-823. Severability [Effective Dec. 6, 2026].

If any provision of this subchapter or its application to any individual or circumstance is held to be invalid, the invalidity of that provision or application does not affect other provisions or applications of this subchapter that can be given effect without the invalid provision or application.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-824. Irrevocability [Effective Dec. 6, 2026].

An action to invalidate a gestational or genetic carrier agreement meeting the requirements of this subchapter or to challenge the rights of parentage established under this subchapter may not be commenced after 12 months from the date of birth of the child.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

§ 8-825. Application [Effective Dec. 6, 2026].

(a) The rule of construction that statutes in derogation of the common law are to be strictly construed does not apply to this subchapter. This subchapter must be broadly construed to accomplish its intended purposes.

(b) Part 2 of this subchapter, as enacted by 79 Del. Laws, c. 88, § 8, applies only to gestational carrier agreements executed after July 3, 2013, and before December 6, 2026, except proceedings for pre-birth determination of parentage pursuant to § 8-617 of this title which may be commenced on or after July 3, 2013, and before December 6, 2026.

(c) Part 2 of this subchapter, as enacted by 85 Del. Laws, c. 276, applies to gestational carrier agreements executed, or gestational carrier arrangements made, on or after December 6, 2026.

(d) Part 3 of this subchapter applies to genetic carrier agreements executed, or genetic carrier arrangements made, before, on, or after December 6, 2026.

(79 Del. Laws, c. 88, § 8; 85 Del. Laws, c. 276, § 90.)

Subchapter IX

Information About Donor [Effective Dec. 6, 2026].

§ 8-901. Definitions [Effective Dec. 6, 2026].

In this subchapter:

(1) "Identifying information" means:

a. The full name of a donor;

b. The date of birth of the donor; and

c. The permanent and, if different, current address, telephone number, and electronic mail address of the donor at the time of the donation.

(2) "Medical history" means information regarding any:

a. Present illness of a donor;

b. Past illness of the donor; and

c. Social, genetic, and family history pertaining to the health of the donor.

(85 Del. Laws, c. 276, § 93.)

§ 8-902. Applicability [Effective Dec. 6, 2026].

This subchapter applies only to gametes collected on or after December 6, 2026.

(85 Del. Laws, c. 276, § 93.)

§ 8-903. Collection of information [Effective Dec. 6, 2026].

(a) A gamete bank or fertility clinic licensed in this State shall collect from a donor the donor's identifying information and medical history at the time of the donation.

(b) A gamete bank or fertility clinic licensed in this State which receives gametes of a donor collected by another gamete bank or fertility clinic shall collect the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

(c) A gamete bank or fertility clinic licensed in this State shall disclose the information collected under subsections (a) and (b) of this section as provided under § 8-904 of this tile.

(85 Del. Laws, c. 276, § 93.)

§ 8-904. Disclosure of identifying information and medical history [Effective Dec. 6, 2026].

(a) On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic licensed in this State which collected the gametes used in the assisted reproduction shall provide the child with identifying information of the donor who provided the gametes.

(b) Regardless whether a child has made a request under subsection (a) of this section, on request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this State which collected the gametes used in the assisted reproduction shall provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

(c) On request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this State which received the gametes used in the assisted reproduction from another gamete bank or fertility clinic shall disclose to the child or, if the child is a minor, the parent or guardian of the child, the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

(85 Del. Laws, c. 276, § 93.)

§ 8-905. Recordkeeping [Effective Dec. 6, 2026].

(a) A gamete bank or fertility clinic licensed in this State which collects gametes for use in assisted reproduction shall maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this State other than this chapter.

(b) A gamete bank or fertility clinic licensed in this State that receives gametes from another gamete bank or fertility clinic shall maintain the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes

(85 Del. Laws, c. 276, § 93.)

Subchapter X

Miscellaneous Provisions [Effective Dec. 6, 2026].

§ 8-1001. Uniformity of application and construction [Effective Dec. 6, 2026].

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, §§ 92, 94.)

§ 8-1002. Relation to Electronic Signatures in Global and National Commerce Act [Effective Dec. 6, 2026].

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

(85 Del. Laws, c. 276, § 95.)

§ 8-1003. Effect on existing parentage [Effective Dec. 6, 2026].

A determination of parentage or nonparentage made under the law of this State before the enactment of 74 Del. Laws, c. 136, 79 Del. Laws, c. 88, and 85 Del. Laws, c. 276 remains in force and effect.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, §§ 92, 96.)

§ 8-1004. Transitional provision [Effective Dec. 6, 2026].

This chapter applies to a pending proceeding to adjudicate parentage commenced before December 6, 2026, for an issue on which a judgment has not been entered.

(74 Del. Laws, c. 136, § 1; 85 Del. Laws, c. 276, §§ 92, 97.)

Chapter 9
Adoption
Subchapter I
Minors

§ 901. Definitions [Effective until Dec. 6, 2026].

For the purposes of this chapter:

(1) “Adoptee” means a person whose birth parent’s or parents’ rights were terminated or who has been adopted in this State.

(2) “Adult adoptee” means an adoptee who is 18 years of age or older.

(3) “Authorized agency” means any agency duly approved, certified, recognized or licensed by the proper authority of any other state or country in which that agency is located to place children for adoption.

(4) “Birth parent” means:

a. The biological mother of a child;

b. The named father of a child who consented to the termination of his parental rights; or

c. The father whose paternity is presumed pursuant to Chapter 8 of this title.

(5) “Child” means any male or female who has not attained such child’s eighteenth birthday.

(6) “Department” means the Department of Services for Children, Youth and Their Families of this State.

(7) “Identified adoption” means an adoption in which the birth parents and adoptive parents first know each other, without the services or assistance of an intermediary, and then seek placement or adoption services from the Department, a licensed agency or an authorized agency.

(8) “Identifying information” means any data, including that described in § 929 of this title, that can distinguish a party to the adoption from the general public, and shall include, for purposes of subchapter III of this chapter, the full name, full address and birth date of the birth parent or parents and birth sibling or siblings, if any, as well as any other known names and addresses used by the birth parent or parents, birth sibling or siblings or the adoptee.

(9) “Intermediary” means any person for compensation and in such person’s professional capacity, firm, corporation, organization or other legal entity, except the Department or a licensed agency, which in any way acts, or offers to act, as a link between a birth parent and an adoptive family in any proposed placement of a child or any person who receives remuneration for so acting or offering to act.

(10) “Legally free” means that there has been a prior termination or transfer of parental rights by judicial order.

(11) “Legally separated” means any person or persons who, by a decree of the appropriate court of any other state of the United States, other than a decree of absolute divorce, entered in accordance with the laws of that state, has been accorded the right to reside separate and apart from such person’s spouse, or is a party to a decree of divorce from bed and board or its equivalent.

(12) “Licensed agency” means any agency granted a license by the Department of Education, Office of Child Care Licensing to provide adoption services in the State.

(13) “Original birth certificate” means the certificate issued at the time of birth of the child which contains identifying information regarding birth parents and the child’s full name at birth and which may provide such details as the time and place of birth.

(14) “To place” includes any of the following activities, each of which may be performed only by the Department, a licensed agency or an authorized agency: The selection of an approved family for the child; the arrangement for the child’s move into an adoptive home; or the relocation of the child with an adoptive family.

(Code 1935, § 3550; 41 Del. Laws, c. 187, § 1; 43 Del. Laws, c. 207, § 1; 48 Del. Laws, c. 134, § 1; 13 Del. C. 1953, § 901; 57 Del. Laws, c. 363, § 1; 59 Del. Laws, c. 466, §§ 1, 2; 60 Del. Laws, c. 241, § 1; 62 Del. Laws, c. 420, §§ 1, 2; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 280, § 3.)

§ 901. Definitions [Effective Dec. 6, 2026].

For the purposes of this chapter:

(1) “Adoptee” means a person whose birth parent’s or parents’ rights were terminated or who has been adopted in this State.

(2) “Adult adoptee” means an adoptee who is 18 years of age or older.

(3) “Alleged genetic parent” means as defined in § 8-102 of this title.

(4) “Authorized agency” means any agency duly approved, certified, recognized or licensed by the proper authority of any other state or country in which that agency is located to place children for adoption.

(5) “Birth parent” means all of the following:

a. The individual who gave birth to a child.

b. An alleged genetic parent who consented to the termination of parental rights.

c. A presumed parent.

d. An individual who has established a parent-child relationship under § 8-201 of this title.

(6) "Child" means an individual who has not attained the individual's eighteenth birthday.

(7) "Department" means the Department of Services for Children, Youth and Their Families of this State.

(8) "Identified adoption" means an adoption in which the birth parents and adoptive parents first know each other, without the services or assistance of an intermediary, and then seek placement or adoption services from the Department, a licensed agency or an authorized agency.

(9) "Identifying information" means any data, including that described in § 929 of this title, that can distinguish a party to the adoption from the general public, and shall include, for purposes of subchapter III of this chapter, the full name, full address and birth date of the birth parent or parents and birth sibling or siblings, if any, as well as any other known names and addresses used by the birth parent or parents, birth sibling or siblings or the adoptee.

(10) "Intermediary" means any person for compensation and in such person's professional capacity, firm, corporation, organization or other legal entity, except the Department or a licensed agency, which in any way acts, or offers to act, as a link between a birth parent and an adoptive family in any proposed placement of a child or any person who receives remuneration for so acting or offering to act.

(11) "Legally free" means that there has been a prior termination or transfer of parental rights by judicial order.

(12) "Legally separated" means any person or persons who, by a decree of the appropriate court of any other state of the United States, other than a decree of absolute divorce, entered in accordance with the laws of that state, has been accorded the right to reside separate and apart from such person's spouse, or is a party to a decree of divorce from bed and board or its equivalent.

(13) "Licensed agency" means any agency granted a license by the Department of Education, Office of Child Care Licensing to provide adoption services in the State.

(14) "Original birth certificate" means the certificate issued at the time of birth of the child which contains identifying information regarding birth parents and the child's full name at birth and which may provide such details as the time and place of birth.

(15) "Presumed parent" means as defined in § 8-102 of this title.

(16) "To place" includes any of the following activities, each of which may be performed only by the Department, a licensed agency or an authorized agency: The selection of an approved family for the child; the arrangement for the child's move into an adoptive home; or the relocation of the child with an adoptive family.

(Code 1935, § 3550; 41 Del. Laws, c. 187, § 1; 43 Del. Laws, c. 207, § 1; 48 Del. Laws, c. 134, § 1; 13 Del. C. 1953, § 901; 57 Del. Laws, c. 363, § 1; 59 Del. Laws, c. 466, §§ 1, 2; 60 Del. Laws, c. 241, § 1; 62 Del. Laws, c. 420, §§ 1, 2; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 1; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 280, § 3; 85 Del. Laws, c. 276, § 102.)

§ 902. Jurisdiction and venue; removal of petitioner from county.

(a) Family Court shall have jurisdiction of proceedings under this chapter.

(b) A petition for adoption shall be filed either in the Family Court of the county in which the licensed or authorized agency placing the child is located, or the Family Court of the county in which the petitioner resides.

(c) In any case in which, before the proposed adoption has been finally approved or disapproved, the petitioner or petitioners move into a county other than the county in which the original petition was filed, or into another jurisdiction, the Family Court of the county in which the petition was originally filed may continue to exercise jurisdiction over the proceeding until a final decision has been rendered on the petition.

(d) Whenever the Family Court shall assume jurisdiction for the purposes of terminating parental rights over a child, it shall be deemed to have retained jurisdiction for the purposes of proceeding under this chapter for the adoption.

(Code 1935, § 3551; 41 Del. Laws, c. 187, § 1; 48 Del. Laws, c. 134, § 2; 13 Del. C. 1953, § 902; 57 Del. Laws, c. 363, § 2; 57 Del. Laws, c. 402, § 2; 60 Del. Laws, c. 241, § 2; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1.)

§ 903. Persons eligible to petition to adopt.

To be eligible to petition the Family Court for an order authorizing the petitioner or petitioners to adopt a child not such petitioner's or petitioners', the petitioner or petitioners must satisfy the three following requirements:

(1) Either be:

a. A resident of Delaware at the time of filing the petition; or

b. A person with whom a child has been placed for adoption under § 904 of this title; and

(2) Either be:

a. An unmarried person petitioning individually;

b. A divorced or legally separated person petitioning individually;

c. A married couple petitioning jointly, provided they are not legally separated or living apart from each other; or

d. A nonmarried couple petitioning jointly, provided that they are cohabiting, as that term is defined in § 1512(g) of this title; and

(3) Be over the age of 21 at the time of filing the petition

Nothing herein shall affect the right of any person to adopt a person who has reached age 18 as provided in subchapter II of this chapter.

(Code 1935, § 3551; 41 Del. Laws, c. 187, § 1; 48 Del. Laws, c. 134, § 2; 13 Del. C. 1953, § 903; 49 Del. Laws, c. 385; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 3; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 171, § 1; 84 Del. Laws, c. 42, § 1.)

§ 904. Placement and supervision for adoption.

(a) No petition for adoption shall be presented unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by the Department, a licensed agency or an authorized agency, and the placement has been supervised by the Department or a licensed agency, but no such placement or supervision shall be necessary in the case of:

(1) A child sought to be adopted by a stepparent;

(2) A child sought to be adopted by a blood relative, except as provided in § 926 of this title;

(3) A child sought to be adopted by a guardian or permanent guardian so long as guardianship or permanent guardianship has been granted for at least 6 months prior to filing the adoption petition.

(b) No placement for an identified adoption in which an intermediary has been involved shall be approved or permitted by the Department or a licensed agency.

(c) No child shall be placed for adoption in this State pursuant to § 926 of this title unless the placement is approved and supervised by the Department or a licensed agency.

(d) When the prospective adoptive parents are legal residents of the State, but live elsewhere, the approval and supervision required by this section shall be provided by an authorized agency located in close proximity to the family, as will the social report required by § 912 of this title.

(e) An adoptive placement shall not be made until a preplacement evaluation that complies with the Delaware Requirements for Child Placing Agencies has been completed by the Department or licensed agency.

(Code 1935, § 3551A; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 904; 57 Del. Laws, c. 363, § 3; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 73 Del. Laws, c. 171, § 1; 77 Del. Laws, c. 32, § 1.)

§ 905. Appeal from decision of the Department or licensed agency.

In any case where the Department or a licensed agency refuses to place a child for adoption when requested by the parent of the child, or refuses the request of any person that a child be placed with such person for adoption, or terminates any placement prior to adoption contrary to the wishes of the birth parent or prospective adoptive parent of the child, the decision of the Department or a licensed agency in so refusing or so terminating shall be final unless within 30 days after notice of refusal or termination, the birth parent or proposed adoptive parent shall appeal to the Family Court of the county in which the adoption is proposed. The Department or licensed agency shall not remove a child who is legally free for adoption from an adoptive placement prior to the adoption without good cause.

(Code 1935, § 3551K; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 905; 51 Del. Laws, c. 143, § 1; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 906. Contents of petition for adoption [Effective until Dec. 6, 2026].

The petition shall state:

(1) The name, address and marital status of the petitioner or petitioners;

(2) The sex and date of birth of the child whose adoption is sought;

(3) The relationship of the petitioner to the child;

(4) The name of the person, persons or organization legally qualified to consent to the adoption and the basis for the existence in such person, persons or organization of the right to so consent;

(5) The date of the child's placement in the adoptive home, or, in the case of a child to be adopted by a stepparent, the date of the marriage of the stepparent and the child's natural parent;

(6) The name to be assumed by the child upon adoption;

(7) If, in the case of an adoption by a stepparent or blood relative, there has not been a prior legal termination of parental rights, the petition shall also include:

a. The name and residence of the mother and natural father or any presumed father, as defined in Chapter 8 of this title, of the child whose adoption is sought. If either or both parents are deceased, a statement to that effect, with a certified copy of the death certificate or certificates attached.

b. The mother's marital status at the time of the child's conception and birth. In the event that the mother was not married at the time of the child's conception or birth, or in the event that she was married at the time of the child's conception or birth but her husband at those times is not the child's natural father, an affidavit by the mother setting forth either:

1. The name and last known address of the natural father; or

2. A statement that the mother knows the name of the natural father but is unwilling to disclose the name of the natural father; or

3. A statement that the mother does not know the name of the natural father; or

4. The name of the natural father, and a statement that the mother has never known his address.

c. In the case of a stepparent adoption where the petitioner is the wife of the alleged natural father and the child to be adopted has been born out of wedlock to the father and another woman, evidence of paternity blood testing which does not exclude the alleged natural father.

(8) In the case of a child being brought into this State from another state or country for adoption in this State, proof of compliance with all requirements of the Interstate Compact on the Placement of Children, as set out in Chapter 3 of Title 31, relating to such placement.

(9) After execution of the petition by the petitioner or petitioners, there shall be attached so as to preserve the confidential nature of the information contained therein, as required by § 923 of this title, the exhibits set out in paragraphs (7)a., b. and c. of this section; provided, however, that confidentiality is not required in the case of a petition by a stepparent or blood relative or where the birth parent or parents and adoptive parent or parents have exchanged identifying information as provided in § 929 of this title and copies of the written agreements required thereunder are attached:

a. The birth certificate of the child.

b. The legal name of the child whose adoption is being sought.

c. All required consents, or facts justifying the absence of consent, or a certified copy of the Court order terminating or transferring parental rights.

(10) All petitions for adoption filed shall have attached thereto affidavits of the petitioners stating the amount of the service fee charged by all agencies and any other expenses paid by the adopting family in the adoption process, and attesting that no intermediary assisted in locating the child.

(Code 1935, § 3551B; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 906; 55 Del. Laws, c. 248, § 1; 57 Del. Laws, c. 363, § 4; 59 Del. Laws, c. 466, § 4; 60 Del. Laws, c. 241, §§ 3, 4; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1.)

§ 906. Contents of petition for adoption [Effective Dec. 6, 2026].

The petition shall state:

(1) The name, address and marital status of the petitioner or petitioners;

(2) The sex and date of birth of the child whose adoption is sought;

(3) The relationship of the petitioner to the child;

(4) The name of the person, persons or organization legally qualified to consent to the adoption and the basis for the existence in such person, persons or organization of the right to so consent;

(5) The date of the child's placement in the adoptive home, or, in the case of a child to be adopted by a stepparent, the date of the marriage of the stepparent and the child's natural parent;

(6) The name to be assumed by the child upon adoption;

(7) If, in the case of an adoption by a stepparent or blood relative, there has not been a prior legal termination of parental rights, the petition shall also include:

a. The name and residence of any birth parent of the child whose adoption is sought. If any birth parent is deceased, a statement to that effect, with a certified copy of the death certificate or certificates attached.

b. The the individual who gave birth's marital status at the time of the child's conception and birth. If the individual who gave birth was not married at the time of the child's conception or birth, or if the individual was married at the time of the child's conception or birth but the individual's spouse at those times is not a parent of the child, an affidavit by the individual who gave birth stating at least 1 of the following:

1. The name and last known address of the the alleged genetic parent.

2. A statement that the individual who gave birth knows the name of the alleged genetic parent but is unwilling to disclose the name of the alleged genetic parent.

3. A statement that the individual who gave birth does not know the name of the alleged genetic parent.

4. The name of the alleged genetic parent, and a statement that the individual who gave birth has never known the alleged genetic parent's address.

c. In the case of a stepparent adoption where the petitioner is the spouse of the alleged genetic parent and the child to be adopted has been born out of wedlock to the alleged genetic parent and another individual, evidence of genetic testing under § 8-504 of this title which does not exclude the alleged alleged genetic parent.

(8) In the case of a child being brought into this State from another state or country for adoption in this State, proof of compliance with all requirements of the Interstate Compact on the Placement of Children, as set out in Chapter 3 of Title 31, relating to such placement.

(9) After execution of the petition by the petitioner or petitioners, there shall be attached so as to preserve the confidential nature of the information contained therein, as required by § 923 of this title, the exhibits set out in paragraphs (7)a., b. and c. of this section; provided, however, that confidentiality is not required in the case of a petition by a stepparent or blood relative or where the birth parent or parents and adoptive parent or parents have exchanged identifying information as provided in § 929 of this title and copies of the written agreements required thereunder are attached:

a. The birth certificate of the child.

b. The legal name of the child whose adoption is being sought.

c. All required consents, or facts justifying the absence of consent, or a certified copy of the Court order terminating or transferring parental rights.

(10) All petitions for adoption filed shall have attached thereto affidavits of the petitioners stating the amount of the service fee charged by all agencies and any other expenses paid by the adopting family in the adoption process, and attesting that no intermediary assisted in locating the child.

(Code 1935, § 3551B; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 906; 55 Del. Laws, c. 248, § 1; 57 Del. Laws, c. 363, § 4; 59 Del. Laws, c. 466, § 4; 60 Del. Laws, c. 241, §§ 3, 4; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 103.)

§ 907. Consent requirements.

(a) A petition for adoption shall contain a consent to the proposed adoption. The consent shall be in writing, notarized and attached to the petition as an exhibit. If consent is obtained or given outside this State, it must be executed in accordance with this section and § 908 of this title.

(b) A written consent to adoption, duly acknowledged, must be given by any child 14 years of age or over unless the Court, upon further investigation or inquiry, deems it to be in the best interest of the child that such consent be waived. Such consent, when obtained, shall be attached to the petition as an exhibit thereto.

(Code 1935, § 3551C; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 907; 57 Del. Laws, c. 363, § 5; 59 Del. Laws, c. 466, § 5; 68 Del. Laws, c. 259, § 1.)

§ 908. Right to consent [Effective until Dec. 6, 2026].

(a) Except in the case of an adoption by a stepparent or blood relative, no petition for adoption shall be filed unless the child to be adopted is legally free for adoption. The consent to the adoption shall be granted by the Department or by the licensed or authorized agency in whom the parental rights are vested.

(b) In the case of an adoption by a stepparent or blood relative, the consent to the adoption shall be granted as follows:

(1) By mother of a child; and

(2) The biological father and any presumed father of a child; provided, however, that the consent of the alleged biological father or presumed father need not contain an admission that he is the father. In the event that the named biological or presumed father disclaims paternity, an affidavit signed by him to that effect shall be attached to the petition in lieu of a consent from the natural or presumed father. It is further provided that in the event of a petition containing statements described in § 906(7)b.1., 3. or 4. of this title, after a hearing in which it is established on the record that the mother and father of the child are not living together as husband and wife openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of the father's consent in compliance with § 932 of this title.

(3) If, in the case of an adoption by a stepparent or blood relative, any person from whom consent is required is deceased, a certified copy of the death certificate of such person shall be filed with the petition in lieu of consent.

(c) If the individual in whom the right to consent exists is under the age of 18 years, this fact shall not be a bar to the giving of consent nor render the consent when given invalid.

(Code 1935, § 3551C; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 908; 57 Del. Laws, c. 363, § 6; 59 Del. Laws, c. 466, § 6; 61 Del. Laws, c. 178, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1.)

§ 908. Right to consent [Effective Dec. 6, 2026].

(a) Except in the case of an adoption by a stepparent or blood relative, no petition for adoption shall be filed unless the child to be adopted is legally free for adoption. The consent to the adoption shall be granted by the Department or by the licensed or authorized agency in whom the parental rights are vested.

(b) In the case of an adoption by a stepparent or blood relative, the consent to the adoption shall be granted as follows:

(1) By the individual who gave birth to a child; and

(2) The alleged genetic parent and any presumed parent of a child; provided, however, that the consent of the alleged genetic parent or presumed parent need not contain an admission that the alleged genetic parent or presumed parent is a parent of the child. If the alleged genetic parent or presumed parent disclaims parentage, an affidavit signed by the alleged genetic parent or presumed parent to that effect must be attached to the petition in lieu of a consent from the alleged genetic parent or presumed parent. If a petition is filed containing statements described in § 906(7)b.1., 3. or 4. of this title, after a hearing in which it is established on the record that the birth parents of the child are not living together as married couple openly and that they have not done so nor married since the birth of the child, the Court may, following consideration of the social report, dispense with the requirement of consent in compliance with § 932 of this title.

(3) If, in the case of an adoption by a stepparent or blood relative, any person from whom consent is required is deceased, a certified copy of the death certificate of such person shall be filed with the petition in lieu of consent.

(c) If the individual in whom the right to consent exists is under the age of 18 years, this fact shall not be a bar to the giving of consent nor render the consent when given invalid.

(Code 1935, § 3551C; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 908; 57 Del. Laws, c. 363, § 6; 59 Del. Laws, c. 466, § 6; 61 Del. Laws, c. 178, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 104.)

§ 909. Withdrawal of consent.

In any case in which consent has been given in accordance with the provisions of § 907 of this title, and the person, Department, licensed agency, authorized agency or child over age 14 giving the consent desires to withdraw the consent, the person, Department, licensed agency, authorized agency or child over age 14 shall file, within 60 days from the date of the filing of the adoption petition containing the consent, a petition asking the Court to revoke consent of such person, Department, licensed agency, authorized agency or child over age 14 and dismiss the adoption petition. The Family Court shall refer the petition to revoke and dismiss to the Department or licensed agency, and the Department or licensed agency shall, within 30 days of the reference, make a formal report thereon to the Court. Promptly upon receipt of the report, the Court shall rule upon the petition to revoke and dismiss.

(Code 1935, § 3551D; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 909; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 910. Withdrawal of petition.

In any case in which the petition to adopt is withdrawn, the Court may order the removal of the child from the prospective adoptive home if, in the opinion of the Court, such removal is in the best interest of the child. If such a removal is ordered, the Court shall include in the order a grant of authority to the Department or to a licensed agency to make the removal and to provide for the future disposition of the child.

(Code 1935, § 3551D; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 910; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1.)

§ 911. Religious affiliation [Effective until Dec. 6, 2026].

(a) If either natural parent, in a notarized statement made prior to the placement for adoption, specifies the religion in which such parent desires the child to be raised, the Department or licensed agency shall make placement in accordance with such statement. If the natural parents declare indifference to the religion in which the child should be reared, or if their religion is not known, or if there is none, then the Department or licensed agency shall make placement without regard to religion.

(b) If the proposed adoptive parent is a stepparent or blood relative, there shall be no restriction regarding the religious affiliation.

(c) Whenever the provisions as set forth in subsection (a) of this section appear to create a hardship for the child to be adopted in obtaining a suitable and prompt placement, the Family Court, in its discretion, may waive these requirements in the best interest of the child.

(Code 1935, § 3551E; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 911; 56 Del. Laws, c. 323; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1.)

§ 911. Religious affiliation [Effective Dec. 6, 2026].

(a) If any birth parent, in a notarized statement made prior to the placement for adoption, specifies the religion in which such parent desires the child to be raised, the Department or licensed agency shall make placement in accordance with such statement. If any birth parent declares indifference to the religion in which the child should be reared, or if their religion is not known, or if there is none, then the Department or licensed agency shall make placement without regard to religion.

(b) If the proposed adoptive parent is a stepparent or blood relative, there shall be no restriction regarding the religious affiliation.

(c) Whenever the provisions as set forth in subsection (a) of this section appear to create a hardship for the child to be adopted in obtaining a suitable and prompt placement, the Family Court, in its discretion, may waive these requirements in the best interest of the child.

(Code 1935, § 3551E; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 911; 56 Del. Laws, c. 323; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 105.)

§ 912. Social study and report [Effective until Dec. 6, 2026].

(a) Upon the filing of a petition for adoption, the Judge of the Family Court in which the petition has been filed, after determining that the petition has been properly filed and that the petitioner or petitioners are eligible to adopt under this chapter, shall order a social study report by the Department or licensed agency or authorized agency unless the report was filed with the petition.

(b) The report shall include:

(1) Information regarding the child, its background, its eligibility for adoption;

(2) Information regarding the adoptive parent or parents, and the proposed adoptive home;

(3) Information regarding the physical and mental condition of the child;

(4) Information regarding the suitability of the placement;

(5) A statement as to whether all requirements of this chapter have been complied with;

(6) In stepparent/relative cases, a statement that the birth parent whose parental rights are being terminated has been advised of the right to file an affidavit as provided by subchapter III of this chapter;

(7) A recommendation.

(c) If the placement is made by the Department or licensed agency, the report shall be rendered within 60 days from the receipt of the order for the report unless the report is filed with the petition for adoption. In the case of adoption by a stepparent or blood relative, the report is to be rendered within 60 days following the completion of the social study, and shall include a statement of the cost of the study.

(d) If the Court orders any further social investigation or any supplement of the social report, any such investigation shall be conducted and a supplement shall be prepared by the Department or the licensed or authorized agency party to the proceedings.

(Code 1935, § 3551F; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 912; 51 Del. Laws, c. 143, § 2; 55 Del. Laws, c. 248, § 2; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 7; 62 Del. Laws, c. 402, §§ 1, 8; 64 Del. Laws, c. 108, § 6; 67 Del. Laws, c. 106, § 3; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 9.)

§ 912. Social study and report [Effective Dec. 6, 2026].

(a) Upon the filing of a petition for adoption, the Judge of the Family Court in which the petition has been filed, after determining that the petition has been properly filed and that the petitioner or petitioners are eligible to adopt under this chapter, shall order a social study report by the Department or licensed agency or authorized agency unless the report was filed with the petition.

(b) The report shall include:

(1) Information regarding the child, the child's background, and the child's eligibility for adoption;

(2) Information regarding the adoptive parent or parents, and the proposed adoptive home;

(3) Information regarding the physical and mental condition of the child;

(4) Information regarding the suitability of the placement;

(5) A statement as to whether all requirements of this chapter have been complied with;

(6) In stepparent/relative cases, a statement that the birth parent whose parental rights are being terminated has been advised of the right to file an affidavit as provided by subchapter III of this chapter;

(7) A recommendation.

(c) If the placement is made by the Department or licensed agency, the report shall be rendered within 60 days from the receipt of the order for the report unless the report is filed with the petition for adoption. In the case of adoption by a stepparent or blood relative, the report is to be rendered within 60 days following the completion of the social study, and shall include a statement of the cost of the study.

(d) If the Court orders any further social investigation or any supplement of the social report, any such investigation shall be conducted and a supplement shall be prepared by the Department or the licensed or authorized agency party to the proceedings.

(Code 1935, § 3551F; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 912; 51 Del. Laws, c. 143, § 2; 55 Del. Laws, c. 248, § 2; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 7; 62 Del. Laws, c. 402, §§ 1, 8; 64 Del. Laws, c. 108, § 6; 67 Del. Laws, c. 106, § 3; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 9; 85 Del. Laws, c. 276, § 106.)

§ 913. Time for filing the adoption petition.

(a) A petition for adoption may be filed when the requirements of § 904 of this title have been met, the child is legally free for adoption, and the adoptive placement of the child has been supervised for a period of 6 months by the Department or licensed agency.

(b) In the case of a child to be adopted by a stepparent, guardian, permanent guardian or a blood relative, the petition for adoption shall be filed only after the child has resided in the home of the petitioner for at least 1 year; except that, on recommendation of the Department or licensed agency, a petition may be filed after 6 month's continuous residence of the child in the petitioner's home. In the case of adoption by a stepparent, guardian, permanent guardian or blood relative, it is not necessary that the child be legally free prior to the filing of the petition.

(Code 1935, § 3551G; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 913; 51 Del. Laws, c. 143, § 3; 59 Del. Laws, c. 466, § 8; 60 Del. Laws, c. 241, § 5; 64 Del. Laws, c. 108, § 10; 68 Del. Laws, c. 259, § 1; 73 Del. Laws, c. 171, § 2; 77 Del. Laws, c. 32, § 2.)

§ 914. Death, divorce, annulment, separation of petitioner pending proceeding.

(a) In the event of the death of a sole petitioner, or of both petitioners, the proceedings shall abate and the petition shall be dismissed.

(b) When, after a petition for adoption has been filed, 1 of 2 petitioners dies, or as a result of divorce, annulment or separation, legal or otherwise, the petitioners would no longer be qualified to petition jointly, the proceedings shall be stayed. The Family Court in which the petition was originally filed shall then decide on the basis of a report to be obtained by it from the Department or licensed agency, whether the proceedings shall continue or whether the petition should be dismissed.

(Code 1935, § 3551O; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 914; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1.)

§ 915. Decree of adoption.

(a) Within 60 days from the date of the receipt by the Court of the report, the Court shall render a decision upon the petition. If the Court is of the opinion that the petitioner or petitioners are qualified properly to maintain, care for and educate the child, that the child is suitable

for adoption and that the best interest of the child will be promoted by the adoption, a decree of adoption shall be entered. If the Court is of the opinion that such a decree should not be entered, it shall notify the petitioner or petitioners and, if requested by any petitioner, it shall order a hearing to which all interested parties shall be duly summoned, and, based upon the report and evidence adduced at the hearing, the Court shall issue its decree granting or refusing the prayer of the petitioner.

(b) At any time after the report has been filed but prior to the Court's rendering a decision, the Court may order the removal of the child from the proposed adoptive home if, in the opinion of the Court, such removal is in the best interest of the child. If such a removal is ordered, the Court shall include in the order a grant of authority to the Department or to a licensed agency, to make the removal and to provide for the future disposition of the child.

(c) The decree of adoption shall state:

(1) The name by which the child is henceforth to be known;

(2) The sex and age of the child;

(3) The name of the child at the time the petition was filed.

(d) Upon the entry of a decree of adoption the Clerk of Court shall issue to the adopting parent or parents a certificate of adoption stating the date of the decree, the age and sex of the child, the name by which the child is henceforth to be known, and the names of the adopting parent or parents. Neither the original name of the child nor the names of the birth parents shall be included in the certificate of adoption.

(Code 1935, § 3551H; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 915; 55 Del. Laws, c. 248, §§ 3, 4; 57 Del. Laws, c. 402, § 2; 60 Del. Laws, c. 241, § 7; 62 Del. Laws, c. 402, § 2; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1.)

§ 916. Court costs.

The costs in all cases of adoption under this chapter shall be taxed by the Court on the person or persons filing the petition, and they shall pay the same to the Clerk of Court.

(17 Del. Laws, c. 612, § 4; Code 1915, § 3066; Code 1935, § 3552; 13 Del. C. 1953, § 916; 62 Del. Laws, c. 402, § 2; 68 Del. Laws, c. 259, § 1.)

§ 917. Appeal.

(a) Appeal from any order or decree entered in any adoption proceedings shall lie to the Supreme Court. No appeal shall lie from any order or decree involving proceedings for adoption unless taken within 30 days from the date of such order or decree.

(b) The Department, licensed agency or any person party to the proceedings may file such appeal.

(c) In any case in which the effect of the decision of the Supreme Court, on appeal, is to deny the petition for adoption, the Supreme Court shall remand the cause to the Family Court for a determination as to whether or not the child shall remain in the proposed adoptive home. If a removal is ordered, the Family Court shall include in the order a grant of authority to the Department or a licensed agency to make the removal and to provide for the future disposition of the child.

(Code 1935, § 3551L; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 917; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1.)

§ 918. Finality of decree of adoption.

Upon the expiration of 6 months from the date of the entry of the decree of adoption, any irregularities in the proceedings shall be deemed cured, and the validity of such decree shall not thereafter be subject to attack either through collateral or direct proceedings.

(Code 1935, § 3551L; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 918; 68 Del. Laws, c. 259, § 1; 73 Del. Laws, c. 171, § 3.)

§ 919. General effect of adoption.

(a) Upon the issuance of the decree of adoption, the adopted child shall be considered the child of the adopting parent or parents, entitled to the same rights and privileges and subject to the same duties and obligations as if such child had been born to the adopting parent or parents.

(b) Upon the issuance of a decree of adoption, the adopted child shall no longer be considered the child of such child's birth parent or parents and shall no longer be entitled to any of the rights or privileges or subject to any of the duties or obligations of a child with respect to the birth parent or parents; but, when a child is adopted by a stepparent such child's relationship to the birth parent who is married to the stepparent shall in no way be altered by reason of the adoption.

(Code 1935, § 3551I; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 919; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 920. Effect of adoption on inheritance [Effective until Dec. 6, 2026].

(a) Upon the issuance of a decree of adoption, the adopted child shall lose all rights of inheritance from its natural parent or parents and from their collateral or lineal relatives. The rights of the natural parent or parents or their collateral or lineal relatives to inherit from such child shall cease upon the adoption.

(b) Upon the issuance of a decree of adoption, the adopted child shall acquire the right to inherit from its adoptive parent or parents and from the collateral or lineal relatives of such adoptive parent or parents, and the adoptive parent or parents and the collateral or lineal relatives of the adoptive parent or parents shall at the same time acquire the right to inherit from the adopted child.

(c) Nothing contained in this section shall limit in any way the right of any person to provide for the disposition of such person's property by will. The rights of a child adopted after the making of a will by the adopting parent or parents shall be the same as the rights of an after-born child, as prescribed in § 301 of Title 12. When the adopting parent is a stepparent, married to the birth or legal parent, nothing contained in this section shall affect the rights of inheritance between the child and the birth or legal parent or their collateral or lineal relatives.

(Code 1935, § 3551J; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 920; 68 Del. Laws, c. 259, § 1; 84 Del. Laws, c. 42, § 1.)

§ 920. Effect of adoption on inheritance [Effective Dec. 6, 2026].

(a) Upon the issuance of a decree of adoption, the adopted child shall lose all rights of inheritance from the child's birth parent or parents and from their collateral or lineal relatives. The rights of the birth parent or parents or their collateral or lineal relatives to inherit from the child shall cease upon the adoption.

(b) Upon the issuance of a decree of adoption, the adopted child shall acquire the right to inherit from the child's adoptive parent or parents and from the collateral or lineal relatives of such adoptive parent or parents, and the adoptive parent or parents and the collateral or lineal relatives of the adoptive parent or parents shall at the same time acquire the right to inherit from the adopted child.

(c) Nothing contained in this section shall limit in any way the right of any person to provide for the disposition of such person's property by will. The rights of a child adopted after the making of a will by the adopting parent or parents shall be the same as the rights of an after-born child, as prescribed in § 301 of Title 12. When the adopting parent is a stepparent, married to the birth or legal parent, nothing contained in this section shall affect the rights of inheritance between the child and the birth or legal parent or their collateral or lineal relatives.

(Code 1935, § 3551J; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 920; 68 Del. Laws, c. 259, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 107.)

§ 921. Report of vital statistics data [Effective until Dec. 6, 2026].

(a) Upon the entry of a decree of adoption, the Clerk of the Family Court shall forward to the Department of Health and Social Services, Office of Vital Statistics, a report on the form provided for this purpose, which shall include the following information:

(1) Prior legal name of the child and such child's sex;

(2) Date and place of birth of the child;

(3) Name of the father as stated on the original birth certificate, if stated;

(4) If applicable, that father's primary address and Social Security number;

(5) Maiden name of birth mother;

(6) Birth mother's primary address and Social Security number;

(7) Child's name after adoption;

(8) Name of adoptive father, place and date of adoptive father's birth, and adoptive father's occupation;

(9) Maiden name of adoptive mother, place and date of adoptive mother's birth, and adoptive mother's occupation; and

(10) Address of adoptive parents.

(b) If the adoptive child was born in another state, the Clerk of the Family Court in which the order was entered shall forward the same information to the Bureau of Vital Statistics, or like agency, in the state of the child's birth.

(Code 1935, § 3551M; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 921; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 9; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 481, § 4; 84 Del. Laws, c. 42, § 1.)

§ 921. Report of vital statistics data [Effective Dec. 6, 2026].

(a) Upon the entry of a decree of adoption, the Clerk of the Family Court shall forward to the Department of Health and Social Services, Office of Vital Statistics, a report on the form provided for this purpose, which shall include the following information:

(1) Prior legal name of the child and such child's sex.

(2) Date and place of birth of the child.

(3) Name of each birth parent as stated on the original birth certificate, if stated.

(4) Each birth parent's primary address and Social Security number.

(5) If applicable, a birth parent's maiden name.

(6) [Repealed.]

(7) Child's name after adoption.

(8) Name, including any maiden name, place and date of birth, and occupation of each adoptive parent.

(9) [Repealed.]

(10) Address of adoptive parents.

(b) If the adoptive child was born in another state, the Clerk of the Family Court in which the order was entered shall forward the same information to the Bureau of Vital Statistics, or like agency, in the state of the child's birth.

(Code 1935, § 3551M; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 921; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 9; 62 Del. Laws, c. 402, § 1; 68 Del. Laws, c. 259, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 481, § 4; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 108.)

§ 922. Birth certificate.

(a) If a child born in this State is adopted in this State or in another state, the State Registrar shall file a new certificate of birth upon receipt of a certified copy of the decree of adoption from the proper authorities of the state in which the adoption took place.

(b) If the adopted child was born outside this State, and a certificate of birth cannot be secured from the place of birth, the State Registrar may file and issue a special birth certificate as herein provided, upon receipt from the agency responsible for the adoption of evidence of the birth, considered satisfactory by the Registrar.

(Code 1935, § 3551M; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 922; 68 Del. Laws, c. 259, § 1.)

§ 923. Confidential nature of information; old and new birth certificates [Effective until Dec. 6, 2026].

(a) Except as provided in subchapter III of this chapter, all information regarding any adoption which is furnished to any State Registrar shall be confidential and not open to public inspection. The names of the biological or previous legal parent or parents or the former name of the child shall not be furnished to the adoptive parents, nor shall the name of the adoptive parents be furnished to the biological or previous legal parent or parents and, after the entry of the decree of adoption, the original record of birth shall be impounded and all birth certificates shall be issued in the adoptive name only, if a new name has been assumed, and shall contain no reference to the former name or background or the fact of adoption.

(b) Notwithstanding any other provision in the Delaware Code to the contrary, an adoptee 21 years of age or older may obtain a copy of such adoptee's original record of birth from the State Registrar pursuant to § 3110(b) of Title 16, even if that record has been impounded. This section shall not apply if the birth parent has, within the most recent 3-year period, filed a written notarized statement with the Department of Health and Social Services Office of Vital Statistics denying the release of any identifying information.

(c) If an adoptee 21 years of age or older seeks vital records about any event occurring before January 18, 1999, the Office of Vital Statistics shall consult Family Court to determine whether there is an affidavit on file expressing a desire by either birthparent to keep information about the adoption confidential.

(1) If there is an affidavit on file with Family Court authorizing the release of information, the Office of Vital Statistics shall request a copy of the affidavit and, upon receipt of the affidavit, release the authorized records.

(2) If there is an affidavit on file with Family Court denying the release of information, or if there is no affidavit on file with Family Court, the Office of Vital Statistics shall send notice, as described below, by United States mail to the birthparent or birthparents.

a. The Office of Vital Statistics shall search a computerized telephone or address database, as well as Delaware's Division of Motor Vehicles and voter records in order to determine the most likely address of the birthparent. Such notice shall be sent to that address. If no current address is available, then notice shall be sent to the last known address for the birthparent or birthparents. Such notification shall be mailed within 30 days from when the adoptee requested release of the records.

b. The Office of Vital Statistics shall notify the birthparent or birthparents of the legal requirements for maintaining confidentiality and shall provide them with the appropriate forms. The Office of Vital Statistics shall also advise the birthparent or birthparents that in the event that a written notarized statement denying the release of information is not received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section then the Office of Vital Statistics will release the records to the adoptee.

1. If the Office of Vital Statistics receives a written notarized statement denying the release of information, then it shall not release the records.

2. If no such written statement is received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section or if the birthparent or birthparents specifically authorizes release, then the Office of Vital Statistics shall release the records to the adoptee.

(Code 1935, § 3551M; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 923; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 481, § 5; 72 Del. Laws, c. 1, § 1; 74 Del. Laws, c. 110, § 139; 84 Del. Laws, c. 42, § 1.)

§ 923. Confidential nature of information; old and new birth certificates [Effective Dec. 6, 2026].

(a) Except as provided in subchapter III of this chapter, all information regarding any adoption which is furnished to any Delaware registrar shall be confidential and not open to public inspection. The names of the birth parent or birth parents or the former name of the child shall not be furnished to the adoptive parents, nor shall the name of the adoptive parents be furnished to the birth parent or parents and, after the entry of the decree of adoption, the original record of birth shall be impounded and all birth certificates shall be

issued in the adoptive name only, if a new name has been assumed, and shall contain no reference to the former name or background or the fact of adoption.

(b) Notwithstanding any other provision in the Delaware Code to the contrary, an adoptee 21 years of age or older may obtain a copy of such adoptee's original record of birth from the State Registrar pursuant to § 3110(b) of Title 16, even if that record has been impounded. This section shall not apply if the birth parent has, within the most recent 3-year period, filed a written notarized statement with the Department of Health and Social Services Office of Vital Statistics denying the release of any identifying information.

(c) If an adoptee 21 years of age or older seeks vital records about any event occurring before January 18, 1999, the Office of Vital Statistics shall consult Family Court to determine whether there is an affidavit on file expressing a desire by either birthparent to keep information about the adoption confidential.

(1) If there is an affidavit on file with Family Court authorizing the release of information, the Office of Vital Statistics shall request a copy of the affidavit and, upon receipt of the affidavit, release the authorized records.

(2) If there is an affidavit on file with Family Court denying the release of information, or if there is no affidavit on file with Family Court, the Office of Vital Statistics shall send notice, as described below, by United States mail to the birth parent or birth parents.

a. The Office of Vital Statistics shall search a computerized telephone or address database, as well as Delaware's Division of Motor Vehicles and voter records in order to determine the most likely address of the birthparent. Such notice shall be sent to that address. If no current address is available, then notice shall be sent to the last known address for the birth parent or birth parents. Such notification shall be mailed within 30 days from when the adoptee requested release of the records.

b. The Office of Vital Statistics shall notify the birth parent or birth parents of the legal requirements for maintaining confidentiality and shall provide them with the appropriate forms. The Office of Vital Statistics shall also advise the birth parent or birth parents that in the event that a written notarized statement denying the release of information is not received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section then the Office of Vital Statistics will release the records to the adoptee.

1. If the Office of Vital Statistics receives a written notarized statement denying the release of information, then it shall not release the records.

2. If no such written statement is received within 35 days from the date of the mailing of the notification required in paragraph (c)(1)a. of this section or if the birth parent or birth parents specifically authorizes release, then the Office of Vital Statistics shall release the records to the adoptee.

(Code 1935, § 3551M; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 923; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 481, § 5; 72 Del. Laws, c. 1, § 1; 74 Del. Laws, c. 110, § 139; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 276, § 109.)

§ 924. Confidential nature of Court records.

Except as provided in subchapter III of this chapter, all court records of any adoption shall be treated as strictly confidential and shall be kept by the Clerk of the Court in a sealed container which shall be opened only upon the order of the Judge of Family Court concerned. Nothing in this section shall be construed in such a way as to restrict the Department or licensed agency from releasing nonidentifying information in its records to any of the parties to the adoption. Except as otherwise provided in § 929 and subchapter III of this title, identifying information, such as names and addresses, shall not be released except by order of the Court or with the consent of all the parties involved when it is deemed by the agency to be in the adoptee's best interest, except in cases where the adopted individual's health or the health of any blood relative of the adopted individual is concerned and the adoption agency has refused to release the health information to the individual, the Court may, through petition by the adopted individual, permit the party to inspect only that part of the adoption agency or Court record containing medical information for health reasons. The Court shall order open to inspection by the individual the part of the record containing the needed medical information if the Court finds that any medical information in the Court or adoption agency record of the individual's adoption is needed for the health of the individual or of any blood relative of the individual. This section shall apply to information as to the identification and location of any biological sibling of the individual if the individual's health or the health of any blood relative of the individual depends on the sibling's participation in any medical treatment. If Family Court receives a report stating that a birth parent, another offspring of the birth parent or the adoptee has a genetically transmitted disorder or a family pattern of a disease, Family Court shall instruct the agency that was involved with the adoption or the termination of parental rights to conduct a diligent search for the adult adoptee, adoptive parents of a minor adoptee or birth parent or parents to inform them of the report.

(Code 1935, § 3551N; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 924; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, §§ 1, 2; 62 Del. Laws, c. 420, § 3; 64 Del. Laws, c. 108, § 10; 64 Del. Laws, c. 387, § 1; 67 Del. Laws, c. 106, § 2; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, §§ 3, 4.)

§ 925. Inspection of Court records [Effective until Dec. 6, 2026].

Except as provided in subchapter III of this chapter, anyone wishing to inspect any of the papers filed in connection with any adoption shall petition the Judge of the Family Court concerned setting forth the reasons for the inspection. The Judge shall refer the petition to the Department or licensed agency for investigation and recommendation. If in the opinion of the Court, the information is necessary, and

the interest of the adopted individual, the biological or previous legal parent or parents or of the adoptive parents will not be prejudiced by its disclosure, the Court shall issue an order permitting the release of the information and setting forth the terms under which it shall be released.

(Code 1935, § 3551N; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 925; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 341, § 1; 69 Del. Laws, c. 433, § 3.)

§ 925. Inspection of Court records [Effective Dec. 6, 2026].

Except as provided in subchapter III of this chapter, anyone wishing to inspect any of the papers filed in connection with any adoption shall petition the Judge of the Family Court concerned setting forth the reasons for the inspection. The Judge shall refer the petition to the Department or licensed agency for investigation and recommendation. If in the opinion of the Court, the information is necessary, and the interest of the adopted individual, the birth parent or birth parents or of the adoptive parents will not be prejudiced by its disclosure, the Court shall issue an order permitting the release of the information and setting forth the terms under which it shall be released.

(Code 1935, § 3551N; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 925; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 341, § 1; 69 Del. Laws, c. 433, § 3; 85 Del. Laws, c. 276, § 110.)

§ 926. Receiving child into State for adoption.

No child shall be brought or received into the State for the purpose of adoption without the approval of the Department, pursuant to § 381 of Title 31. No petition for adoption of a child brought or received into this State in violation of this section shall be presented or granted.

(Code 1935, § 3551P; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 926; 57 Del. Laws, c. 363, § 7; 60 Del. Laws, c. 241, § 6; 64 Del. Laws, c. 108, § 10; 68 Del. Laws, c. 259, § 1.)

§ 927. Foreign adoptions; validity.

(a) Adoptions finalized by a Court with appropriate jurisdiction in a foreign country or in another state or territory of the United States shall be valid in this State provided that the final adoption decree was issued in full accord with the adoption laws of that foreign country or that state or territory, and that the child was not brought into this State until after the finalization of adoption.

(b) No adoption proceeding or order therein which occurs in a foreign country or in another state or territory of the United States shall be valid or recognized by any court in this State as respects persons who are residents of this State where a child is brought into this State prior to the finalization of the adoption, unless the adoption proceedings shall be in substantial compliance with the adoption laws of this State. This subsection shall not apply to any adoption proceedings or order therein initiated in a foreign country or in another state or territory of the United States as respects persons who are not residents of this State at the time of the commencement of such adoption proceedings.

(c) Adoptive parents seeking an order certifying the validity of their foreign adoption decree shall file the decree with the Family Court in the county in which they reside. An affidavit shall be filed with the decree indicating that the decree was issued in accordance with the laws of the issuing jurisdiction and that the adopted child was not brought into Delaware until the adoption was finalized. Also included in the affidavit shall be the name by which the child is henceforth to be known. The Court shall review the affidavit, decree and other documents, and if the adoption meets the requirements of this section, the Court shall issue an order certifying the validity of the adoption including the child's American name.

(Code 1915, § 3063; 38 Del. Laws, c. 162, § 1; Code 1935, §§ 3549, 3551P; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 927; 68 Del. Laws, c. 259, § 1; 72 Del. Laws, c. 306, §§ 1, 2; 73 Del. Laws, c. 343, § 1.)

§ 928. Contributions and fees [Effective until Dec. 6, 2026].

(a) No biological parent of any child whose adoption is proposed shall receive any contribution, fee, subsidy or emolument of any sort from any person or organization having any connection or association with the placement of the child for adoption or with the adoption.

(b) No person or organization who is in any way connected with an adoption shall receive any remuneration in connection therewith, except for court costs and legal services; provided, however, that the Department, licensed agency or authorized agency may charge a service fee for each adoption in an amount not exceeding the cost of services rendered, to be paid by the adopting parent or parents. The amount of any such fee shall be made a part of the petition as provided in § 906(10) of this title.

(c) The Department, in its discretion in accordance with federal law and the regulations and interpretations thereof, may award subsidy moneys to the adoptive parent of a child who was in Department custody prior to the adoption petition being filed. The amount and duration of the subsidy shall be in the sole discretion of the Department.

(Code 1935, § 3551Q; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 928; 51 Del. Laws, c. 143, § 4; 59 Del. Laws, c. 466, § 10; 68 Del. Laws, c. 259, § 1; 77 Del. Laws, c. 43, § 8.)

§ 928. Contributions and fees [Effective Dec. 6, 2026].

(a) No birth parent of any child whose adoption is proposed shall receive any contribution, fee, subsidy or emolument of any sort from any person or organization having any connection or association with the placement of the child for adoption or with the adoption.

(b) No person or organization who is in any way connected with an adoption shall receive any remuneration in connection therewith, except for court costs and legal services; provided, however, that the Department, licensed agency or authorized agency may charge a service fee for each adoption in an amount not exceeding the cost of services rendered, to be paid by the adopting parent or parents. The amount of any such fee shall be made a part of the petition as provided in § 906(10) of this title.

(c) The Department, in its discretion in accordance with federal law and the regulations and interpretations thereof, may award subsidy moneys to the adoptive parent of a child who was in Department custody prior to the adoption petition being filed. The amount and duration of the subsidy shall be in the sole discretion of the Department.

(Code 1935, § 3551Q; 48 Del. Laws, c. 134, § 3; 13 Del. C. 1953, § 928; 51 Del. Laws, c. 143, § 4; 59 Del. Laws, c. 466, § 10; 68 Del. Laws, c. 259, § 1; 77 Del. Laws, c. 43, § 8; 85 Del. Laws, c. 276, § 111.)

§ 929. Exchange of identifying information.

(a) As part of the adoption planning and placement process, the Department or licensed agency may provide, when in the best interest of the child, identifying information to the birth parent or parents and to the adoptive parent or parents as follows:

(1) In the preplacement planning of adoption for children, identifying information shall be limited to the viewing of photographs, provided that such viewing is with the consent of birth parent or parents and adoptive parent or parents and further provided that no additional identifying information is contained in the photographs;

(2) After the placement selection process has been completed, and prior to the finalization of the adoption, identifying information may include, but is not limited to, the exchange of names, addresses, photographs and face-to-face meetings, provided that:

a. The birth parent or parents and adoptive parent or parents request the exchange of identifying information in writing; and

b. Birth parent or parents and adoptive parent or parents and the Department or licensed agency agree to the exchange of identifying information as specified in writing; and

c. The birth parent or parents and adoptive parent or parents acknowledge in writing their understanding that no legal right of or assurance of continuing contact after finalization of the adoption exists; and

d. The birth parent or parents and adoptive parent or parents acknowledge in writing and under oath that there has been no violation of § 928 of this title.

(3) Written consent to the exchange of identifying information, duly acknowledged, must be given by any child 14 years of age or over unless the Department or licensed agency deems it to be in the best interest of the child that such consent be waived.

(b) The Department or licensed agency may participate in the exchange of identifying information after the finalization of the adoption only with the agreement of the parties required to consent in accordance with subchapter III of this chapter or an order of the Court.

(67 Del. Laws, c. 106, § 1(b); 68 Del. Laws, c. 259, § 1; 69 Del. Laws, c. 433, § 5.)

§ 930. Advertising for adoption [Effective until Dec. 6, 2026].

No natural parent or prospective adoptive parent, nor anyone acting on behalf of such natural or prospective adoptive parent, and no person, firm, corporation, organization or other legal entity, except the Department or a licensed agency, shall advertise in this State regarding the availability of adoption services or for the placement of a child for the purpose of adoption.

(68 Del. Laws, c. 259, § 1.)

§ 930. Advertising for adoption [Effective Dec. 6, 2026].

No birth parent or prospective adoptive parent, nor anyone acting on behalf of the birth parent or prospective adoptive parent, and no person, firm, corporation, organization or other legal entity, except the Department or a licensed agency, shall advertise in this State regarding the availability of adoption services or for the placement of a child for the purpose of adoption.

(68 Del. Laws, c. 259, § 1; 85 Del. Laws, c. 276, § 112.)

§ 931. Penalties.

Except as provided in this subchapter, whoever places a child in this State for the purpose of adoption, brings or receives a child from outside this State into this State for the purpose of adoption, advertises in this State regarding adoption services or for the placement of a child for the purpose of adoption, or acts as an intermediary for the purpose of adoption, shall be fined not more than $5,000, or shall be imprisoned not more than 5 years, or both.

(68 Del. Laws, c. 259, § 1.)

§ 932. Interpretation.

This chapter is designed to achieve without undue delay the paramount objectives of the best interest of the child, and all questions of interpretation shall be resolved with that objective in mind. Where there appears to be a conflict between the best interest of the parent or parents and the child, the best interest of the child shall prevail.

(59 Del. Laws, c. 466, § 13; 62 Del. Laws, c. 420, § 4; 67 Del. Laws, c. 106, § 1(a); 68 Del. Laws, c. 259, § 1.)

Subchapter II

Persons 18 Years of Age or Over

§ 951. Who may adopt.

The following persons, who desire to adopt any person or persons over 18 years of age, shall file a petition in the Family Court of the county in which any of the petitioner(s) or the person(s) to be adopted resides:

(1) Any person petitioning individually;

(2) A married couple petitioning jointly; or

(3) A nonmarried couple petitioning jointly, provided that they are cohabiting, as that term is defined in § 1512(g) of this title.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 951; 57 Del. Laws, c. 402, § 2; 59 Del. Laws, c. 466, § 12; 62 Del. Laws, c. 402, § 1; 82 Del. Laws, c. 171, § 2.)

§ 952. Contents of petition.

The petition shall state the name, sex and date of birth of the person or persons whose adoption is sought and that the petitioner or petitioners desire to adopt such person or persons. The petition shall be signed by the petitioner or petitioners.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 952.)

§ 953. Decree of adoption.

If the petition complies with the requirements of §§ 951 and 952 of this title, and if the person or persons to be adopted appear in court and consent to the adoption, the Family Court may render a decree ordering the issuance of a certificate of adoption to the petitioner or petitioners. The decree shall state the sex, age and the name by which the person or persons adopted shall thereafter be known.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 953; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 1.)

§ 954. Effect of adoption.

Upon the issuance of the decree of adoption and forever thereafter, all the duties, rights, privileges and obligations recognized by law between parent and child shall exist between the petitioner or petitioners and the person or persons adopted, as fully and to all intents and purposes as if such person or persons were the lawful and natural offspring or issue of the petitioner or petitioners.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 954.)

§ 955. Record of adoption.

The Clerk of Court shall file the petition and all papers pertaining thereto among the records of the Court, and shall record in the record book in which the record of other adoptions is kept all the proceedings in such case, together with the decree of the Court, which record or a duly certified copy thereof shall be evidence.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 955; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 2.)

§ 956. Costs.

The costs shall be taxed by the Court on the petitioner or petitioners.

(27 Del. Laws, c. 263, §§ 1-3; Code 1915, § 3067; Code 1935, § 3553; 13 Del. C. 1953, § 956.)

Subchapter III

Access to Identifying Information

§ 961. Records.

As of January 1, 1995, all adoption records presently maintained in the Prothonotary’s Office shall be transferred to Family Court for permanent retention.

(69 Del. Laws, c. 433, § 2.)

§ 962. Search and reunion services.

(a) An adoptee 21 years of age or older who has obtained a copy of a vital record under § 3110 of Title 16 may request that a licensed adoption agency assist in locating any of the following:

(1) Either or both birth parents;

(2) If a birth parent is deceased, siblings (full or half) of the birth parent;

(3) Birth siblings (full or half) of the adoptee.

(b) When a licensed adoption agency locates an individual sought by an adoptee 21 years of age or older, the agency will advise the located individual of the right to make a no-contact declaration. If a no-contact declaration is made either verbally to a licensed adoption worker or in a writing filed with the agency, the agency will so advise the adoptee and no further assistance will be provided. If a no-contact declaration is not expressed, the agency shall immediately advise the searching adoptee of the located individual's current name, address, and telephone number.

(c) If requested, the agency shall provide counseling or intermediary services, or both, to the searching adoptee or the located individual, or to both.

(71 Del. Laws, c. 481, § 6.)

§ 963. Immunity from liability.

Any person or agency, including the State or any governmental subdivision of this State, who participated in good faith in any requirement of this subchapter, shall have immunity from any liability, civil or criminal, that results from such person's or agency's actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirement of this subchapter shall be presumed.

(69 Del. Laws, c. 433, § 2; 71 Del. Laws, c. 481, § 6.)

§ 964. Immunity from liability.

Transferred.

§ 965. Affidavits.

Repealed by 71 Del. Laws, c. 481, § 6, effective Jan. 18, 1999.

Chapter 11
Termination and Transfer of Parental Rights in Adoption Proceedings

§ 1101. Definitions [Effective until Dec. 6, 2026].

As used in this chapter:

(1) “Alleged father” means as defined in § 8-102 of this title.

(2) “Child” means as defined in § 302 of Title 1.

(3) “Conviction” means as defined in § 222 of Title 11.

(4) “Court” means the Family Court of the State of Delaware.

(5) “Delinquent child” means as defined in § 901 of Title 10.

(6) “Dependency” or “dependent child” means as defined in § 901 of Title 10.

(7) “DSCYF” means the Department of Services for Children, Youth and Their Families of this State.

(8) “Father” means an individual who has established a father-child relationship under § 8-201(b) of this title.

(9) “Individual” means a human being.

(10) “Infant” means a child who is less than 6 months old.

(11) “Licensed agency” means an agency to which the Delaware Department of Education, Office of Child Care Licensing has granted a license to place children for adoption.

(12) “Mother” means an individual who has established a mother-child relationship under § 8-201(a) of this title.

(13) “Neglect” or “neglected child” means as defined in § 901 of Title 10.

(14) “Parent” means as defined in § 8-102 of this title.

(15) “Parental responsibilities” means the care or support of a child in a manner that does both of the following:

a. Provides for the child’s physical needs, including food, clothing, and shelter.

b. Advances the child’s education and physical, mental, and emotional health and development.

(16) “Party” means a party in a termination of parental rights proceeding under this chapter.

(17) “Petitioner” means a petitioner in a termination of parental rights proceeding under this chapter.

(18) “Presumed father” means as defined in § 8-102 of this title.

(19) “Relative” means as defined in § 901 of Title 10.

(20) “Respondent” means a respondent in a termination of parental rights proceeding under this chapter.

(48 Del. Laws, c. 135, § 1; 13 Del. C. 1953, § 1101; 50 Del. Laws, c. 17, § 1; 53 Del. Laws, c. 102, §§ 1, 2; 57 Del. Laws, c. 363, § 8; 58 Del. Laws, c. 511, § 22; 59 Del. Laws, c. 466, §§ 14, 15; 61 Del. Laws, c. 178, § 2; 62 Del. Laws, c. 420, §§ 5, 6; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 317, § 1; 72 Del. Laws, c. 431, § 1; 79 Del. Laws, c. 165, § 1; 79 Del. Laws, c. 371, § 12; 83 Del. Laws, c. 226, § 1; 83 Del. Laws, c. 280, § 4.)

§ 1101. Definitions [Effective Dec. 6, 2026].

As used in this chapter:

(1) “Alleged genetic parent” means as defined in § 8-102 of this title.

(2) “Child” means as defined in § 302 of Title 1.

(3) “Conviction” means as defined in § 222 of Title 11.

(4) “Court” means the Family Court of the State of Delaware.

(5) “Delinquent child” means as defined in § 901 of Title 10.

(6) “Dependency” or “dependent child” means as defined in § 901 of Title 10.

(7) “DSCYF” means the Department of Services for Children, Youth and Their Families of this State.

(8) “Individual” means a human being.

(9) “Infant” means a child who is less than 6 months old.

(10) “Licensed agency” means an agency to which the Delaware Department of Education, Office of Child Care Licensing has granted a license to place children for adoption.

(11) “Neglect” or “neglected child” means as defined in § 901 of Title 10.

(12) “Parent” means as defined in § 8-102 of this title.

(13) “Parental responsibilities” means the care or support of a child in a manner that does both of the following:

a. Provides for the child’s physical needs, including food, clothing, and shelter.

b. Advances the child’s education and physical, mental, and emotional health and development.

(14) “Party” means a party in a termination of parental rights proceeding under this chapter.

(15) “Petitioner” means a petitioner in a termination of parental rights proceeding under this chapter.

(16) “Presumed parent” means as defined in § 8-102 of this title.

(17) “Relative” means as defined in § 901 of Title 10.

(18) “Respondent” means a respondent in a termination of parental rights proceeding under this chapter.

(48 Del. Laws, c. 135, § 1; 13 Del. C. 1953, § 1101; 50 Del. Laws, c. 17, § 1; 53 Del. Laws, c. 102, §§ 1, 2; 57 Del. Laws, c. 363, § 8; 58 Del. Laws, c. 511, § 22; 59 Del. Laws, c. 466, §§ 14, 15; 61 Del. Laws, c. 178, § 2; 62 Del. Laws, c. 420, §§ 5, 6; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 317, § 1; 72 Del. Laws, c. 431, § 1; 79 Del. Laws, c. 165, § 1; 79 Del. Laws, c. 371, § 12; 83 Del. Laws, c. 226, § 1; 83 Del. Laws, c. 280, § 4; 85 Del. Laws, c. 276, § 113.)

§ 1102. Jurisdiction and venue.

(a) The Court has exclusive jurisdiction of proceedings under this chapter to terminate parental rights.

(b) A petition for termination of parental rights may be filed in the Court of any of the following counties:

(1) The county in which a parent resides.

(2) The county in which the organization having legal or physical care, custody, or control of the child is located.

(3) The county in which the child resides.

(c) If the Court assumes jurisdiction under this chapter, it is deemed to have retained jurisdiction under Chapter 9 of this title relating to adoption.

(48 Del. Laws, c. 135, §§ 2, 5; 13 Del. C. 1953, § 1102; 50 Del. Laws, c. 17, § 1; 57 Del. Laws, c. 363, § 9; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, § 3; 68 Del. Laws, c. 276, § 1; 83 Del. Laws, c. 226, § 2.)

§ 1103. Grounds for termination of parental rights [Effective until Dec. 6, 2026].

(a) The procedure for termination of parental rights for the purpose of adoption or, if a suitable adoption plan cannot be effected, for the purpose of providing for the care of a child by another plan which may or may not contemplate the continued possibility of eventual adoption, may be initiated when it appears to be in the child’s best interest and 1 or more of the following grounds exist:

(1) *Consent.* — A parent of the child, or a person or organization holding parental rights over the child desires to relinquish parental rights for the purpose of adoption, and the Court, in its discretion, accepts the consent or the parent has satisfied the requirements under § 907A of Title 16.

(2) *Intentional abandonment.* —

The Court finds that the respondent abandoned the child and the abandonment was intentional. The respondent’s subsequent conduct does not cure the abandonment. Intentional abandonment is evidenced by at least 1 of the following:

a. When the petition for termination of parental rights is filed, the child is under 6 months old and the respondent has failed to do all of the following:

1. Pay reasonable prenatal, natal, and postnatal expenses for the child.

2. Visit regularly with the child or file a petition for visitation with the Court.

3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

b. When the petition for termination of parental rights is filed, the child is at least 6 months old and, for at least 6 consecutive months of the 12 months preceding the filing of the petition, the respondent failed to do all of the following:

1. Communicate or visit regularly with the child.

2. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

c. When the petition for termination of parental rights is filed, the child is under 6 years old and the respondent has manifested unwillingness to exercise parental rights and responsibilities over the child, as evidenced by the respondent having placed the child in circumstances in which the child was at substantial risk of injury or death.

(3) *Unintentional abandonment.* —

The Court finds that the respondent abandoned the child and the abandonment was unintentional. The respondent’s subsequent conduct does not cure the abandonment. Unintentional abandonment is evidenced by both of the following:

a. For at least 12 consecutive months of the 18 months preceding the filing of the petition, the respondent has failed to do all of the following:

1. Communicate or visit regularly with the child.

2. File or pursue a pending petition to establish paternity or to establish a right to have contact or visitation with the child.

3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

b. One or more of the following grounds exists:

1. The child is not in the other parent's legal and physical custody and the respondent is not able or willing to promptly assume legal and physical custody of the child and pay reasonable support for the child.

2. The child is in the legal and physical custody of the other parent and a stepparent, and all of the following apply:

A. The stepparent is the prospective adoptive parent.

B. The respondent is not able or willing to promptly establish and maintain contact with the child and pay reasonable support for the child.

3. Placing the child in the respondent's legal and physical custody would pose a risk of substantial harm to the child's physical or psychological well-being because the respondent is unfit to maintain a relationship of parent and child with the child, as indicated by at least 1 of the following:

A. The circumstances of the child's conception.

B. The respondent's behavior during the mother's pregnancy or since the child's birth.

C. The respondent's behavior with respect to another child.

4. *Failure to terminate the respondent's parental rights would be detrimental to the child. —*

In determining whether this ground exists, the Court shall consider all relevant factors, including all of the following:

A. The respondent's efforts to obtain or maintain legal and physical custody of the child.

B. The role of another person in thwarting the respondent's efforts to assert parental rights.

C. The respondent's ability to care for the child.

D. The child's age.

E. The quality of a previous relationship between the respondent and child, and between the respondent and another child.

F. The duration and suitability of the child's current custodial environment.

G. The effect on the child of a change of physical custody.

(4) *Conviction or adjudication of delinquency. —*

The respondent has had a conviction or has been adjudicated as a delinquent child relating to any of the following offenses or substantially similar offenses of another jurisdiction:

a. A felony level offense against the person under subchapter II of Chapter 5 of Title 11, in which the victim is a child.

b. Aiding, abetting, attempting, conspiring, or soliciting to commit a felony level offense against the person under subchapter II of Chapter 5 of Title 11, in which the victim is a child.

c. Dealing in children or attempting to deal in children, under § 1100A of Title 11.

d. Felony level endangering the welfare of a child, under § 1102 of Title 11.

e. Murder or manslaughter of the other parent of the child who is the subject of the petition.

f. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of the other parent of the child who is the subject of the petition.

(5) *Failure to plan, DSCYF or licensed agency. —*

A child is in DSCYF custody or placed by a licensed agency and the respondent is not able or has failed to plan adequately for the child's physical needs or mental and emotional health and development, and at least 1 of the following conditions are met:

a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.

c. DSCYF previously had custody of the child or another child of the respondent.

d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another child.

e. The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, but the Court may consider the respondent's postconviction conduct.

(6) *Failure to plan, private. —*

The child is a dependent child or neglected child in the respondent's care at the time of the hearing and the Court finds that all of the following exist:

a. The petitioner is the child's parent, guardian, permanent guardian, or relative.

b. The child has resided in the petitioner's home for at least 1 year.

c. The respondent failed to discharge parental responsibilities for at least 12 of the 18 months preceding the filing of the petition.

d. The respondent is unlikely to be able to remedy the dependency or neglect in the near future. In making this determination, the Court shall consider the respondent's efforts to remedy the dependency or neglect.

(7) *Prior involuntary termination. —*

The respondent's parental rights over another child have been involuntarily terminated.

(8) *Abuse. —*

The respondent has subjected a child to torture, chronic abuse, sexual abuse, or life-threatening abuse.

(9) *Unexplained serious injury or death. —*

A child has suffered unexplained serious physical injury, near death, or death under circumstances indicating that the injuries, near death, or death resulted from the respondent's intentional or reckless conduct or wilful neglect.

(b) Unless adoption is contemplated, the termination of 1 parent's rights may not be granted if the effect will be to leave only 1 parent holding parental rights, unless the Court finds that continuing the rights to be terminated will cause the child serious physical or emotional harm.

(c) Nothing in this chapter may be construed to authorize a court to terminate the rights of a parent solely because the parent provides for the child, in good faith and in lieu of medical treatment, treatment by spiritual means alone through prayer under the tenets and practice of a recognized church or religious denomination. However, nothing under this chapter prevents a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health and welfare.

(d) DSCYF is not required to perform reunification or related services under Chapter 90 of Title 29 when the Court finds by clear and convincing evidence that a ground for termination of a parent's rights exists under paragraphs (a)(2), (4), (7), (8), or (9) of this section. Notwithstanding the Court's finding, DSCYF may elect, in its sole discretion, to perform reunification or related services under Chapter 90 of Title 29.

(48 Del. Laws, c. 135, § 2; 13 Del. C. 1953, § 1103; 50 Del. Laws, c. 17, § 1; 50 Del. Laws, c. 534, § 2; 53 Del. Laws, c. 102, § 3; 56 Del. Laws, c. 301, § 2; 59 Del. Laws, c. 466, § 16; 60 Del. Laws, c. 241, § 9; 62 Del. Laws, c. 420, § 7; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 317, §§ 2-5; 72 Del. Laws, c. 179, §§ 1, 2; 72 Del. Laws, c. 431, §§ 2-4; 73 Del. Laws, c. 171, § 4; 73 Del. Laws, c. 187, §§ 6, 8; 75 Del. Laws, c. 376, § 1; 77 Del. Laws, c. 23, §§ 1-5; 77 Del. Laws, c. 32, § 3; 78 Del. Laws, c. 406, § 1; 83 Del. Laws, c. 226, § 3.)

§ 1103. Grounds for termination of parental rights [Effective Dec. 6, 2026].

(a) The procedure for termination of parental rights for the purpose of adoption or, if a suitable adoption plan cannot be effected, for the purpose of providing for the care of a child by another plan which may or may not contemplate the continued possibility of eventual adoption, may be initiated when it appears to be in the child's best interest and 1 or more of the following grounds exist:

(1) *Consent. —*

A parent of the child, or a person or organization holding parental rights over the child desires to relinquish parental rights for the purpose of adoption, and the Court, in its discretion, accepts the consent or the parent has satisfied the requirements under § 907A of Title 16.

(2) *Intentional abandonment. —*

The Court finds that the respondent abandoned the child and the abandonment was intentional. The respondent's subsequent conduct does not cure the abandonment. Intentional abandonment is evidenced by at least 1 of the following:

a. When the petition for termination of parental rights is filed, the child is under 6 months old and the respondent has failed to do all of the following:

1. Pay reasonable prenatal, natal, and postnatal expenses for the child.

2. Visit regularly with the child or file a petition for visitation with the Court.

3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

b. When the petition for termination of parental rights is filed, the child is at least 6 months old and, for at least 6 consecutive months of the 12 months preceding the filing of the petition, the respondent failed to do all of the following:

1. Communicate or visit regularly with the child.

2. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

c. When the petition for termination of parental rights is filed, the child is under 6 years old and the respondent has manifested unwillingness to exercise parental rights and responsibilities over the child, as evidenced by the respondent having placed the child in circumstances in which the child was at substantial risk of injury or death.

(3) *Unintentional abandonment. —*

The Court finds that the respondent abandoned the child and the abandonment was unintentional. The respondent's subsequent conduct does not cure the abandonment. Unintentional abandonment is evidenced by both of the following:

a. For at least 12 consecutive months of the 18 months preceding the filing of the petition, the respondent has failed to do all of the following:

1. Communicate or visit regularly with the child.

2. File or pursue a pending petition to establish parentage or to establish a right to have contact or visitation with the child.

3. Manifest an ability and willingness to assume legal and physical custody of the child, if the child was not in the physical custody of the other parent during this time.

b. One or more of the following grounds exists:

1. The child is not in the other parent's legal and physical custody and the respondent is not able or willing to promptly assume legal and physical custody of the child and pay reasonable support for the child.

2. The child is in the legal and physical custody of the other parent and a stepparent, and all of the following apply:

A. The stepparent is the prospective adoptive parent.

B. The respondent is not able or willing to promptly establish and maintain contact with the child and pay reasonable support for the child.

3. Placing the child in the respondent's legal and physical custody would pose a risk of substantial harm to the child's physical or psychological well-being because the respondent is unfit to maintain a relationship of parent and child with the child, as indicated by at least 1 of the following:

A. The circumstances of the child's conception.

B. The respondent's behavior during the other parent's pregnancy or since the child's birth.

C. The respondent's behavior with respect to another child.

4. *Failure to terminate the respondent's parental rights would be detrimental to the child. —*

In determining whether this ground exists, the Court shall consider all relevant factors, including all of the following:

A. The respondent's efforts to obtain or maintain legal and physical custody of the child.

B. The role of another person in thwarting the respondent's efforts to assert parental rights.

C. The respondent's ability to care for the child.

D. The child's age.

E. The quality of a previous relationship between the respondent and child, and between the respondent and another child.

F. The duration and suitability of the child's current custodial environment.

G. The effect on the child of a change of physical custody.

(4) *Conviction or adjudication of delinquency. —*

The respondent has had a conviction or has been adjudicated as a delinquent child relating to any of the following offenses or substantially similar offenses of another jurisdiction:

a. A felony level offense against the person under subchapter II of Chapter 5 of Title 11, in which the victim is a child.

b. Aiding, abetting, attempting, conspiring, or soliciting to commit a felony level offense against the person under subchapter II of Chapter 5 of Title 11, in which the victim is a child.

c. Dealing in children or attempting to deal in children, under § 1100A of Title 11.

d. Felony level endangering the welfare of a child, under § 1102 of Title 11.

e. Murder or manslaughter of the other parent of the child who is the subject of the petition.

f. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of the other parent of the child who is the subject of the petition.

(5) *Failure to plan, DSCYF or licensed agency. —*

A child is in DSCYF custody or placed by a licensed agency and the respondent is not able or has failed to plan adequately for the child's physical needs or mental and emotional health and development, and at least 1 of the following conditions are met:

a. The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

b. The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.

c. DSCYF previously had custody of the child or another child of the respondent.

d. The respondent has a history of dependency, neglect, abuse, or lack of care of the child or another child.

e. The respondent is incapable of discharging parental responsibilities due to extended or repeated incarceration, but the Court may consider the respondent's postconviction conduct.

(6) *Failure to plan, private. —*

The child is a dependent child or neglected child in the respondent's care at the time of the hearing and the Court finds that all of the following exist:

a. The petitioner is the child's parent, guardian, permanent guardian, or relative.

b. The child has resided in the petitioner's home for at least 1 year.

c. The respondent failed to discharge parental responsibilities for at least 12 of the 18 months preceding the filing of the petition.

d. The respondent is unlikely to be able to remedy the dependency or neglect in the near future. In making this determination, the Court shall consider the respondent's efforts to remedy the dependency or neglect.

(7) *Prior involuntary termination. —*

The respondent's parental rights over another child have been involuntarily terminated.

(8) *Abuse. —*

The respondent has subjected a child to torture, chronic abuse, sexual abuse, or life-threatening abuse.

(9) *Unexplained serious injury or death. —*

A child has suffered unexplained serious physical injury, near death, or death under circumstances indicating that the injuries, near death, or death resulted from the respondent's intentional or reckless conduct or wilful neglect.

(b) Unless adoption is contemplated, the termination of 1 parent's rights may not be granted if the effect will be to leave only 1 parent holding parental rights, unless the Court finds that continuing the rights to be terminated will cause the child serious physical or emotional harm.

(c) Nothing in this chapter may be construed to authorize a court to terminate the rights of a parent solely because the parent provides for the child, in good faith and in lieu of medical treatment, treatment by spiritual means alone through prayer under the tenets and practice of a recognized church or religious denomination. However, nothing under this chapter prevents a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health and welfare.

(d) DSCYF is not required to perform reunification or related services under Chapter 90 of Title 29 when the Court finds by clear and convincing evidence that a ground for termination of a parent's rights exists under paragraphs (a)(2), (4), (7), (8), or (9) of this section. Notwithstanding the Court's finding, DSCYF may elect, in its sole discretion, to perform reunification or related services under Chapter 90 of Title 29.

(48 Del. Laws, c. 135, § 2; 13 Del. C. 1953, § 1103; 50 Del. Laws, c. 17, § 1; 50 Del. Laws, c. 534, § 2; 53 Del. Laws, c. 102, § 3; 56 Del. Laws, c. 301, § 2; 59 Del. Laws, c. 466, § 16; 60 Del. Laws, c. 241, § 9; 62 Del. Laws, c. 420, § 7; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 317, §§ 2-5; 72 Del. Laws, c. 179, §§ 1, 2; 72 Del. Laws, c. 431, §§ 2-4; 73 Del. Laws, c. 171, § 4; 73 Del. Laws, c. 187, §§ 6, 8; 75 Del. Laws, c. 376, § 1; 77 Del. Laws, c. 23, §§ 1-5; 77 Del. Laws, c. 32, § 3; 78 Del. Laws, c. 406, § 1; 83 Del. Laws, c. 226, § 3; 85 Del. Laws, c. 276, § 114.)

§ 1104. Eligibility to petition for termination of parental rights [Effective until Dec. 6, 2026].

A petition for the termination of parental rights may be filed by any of the following:

(1) A parent or presumed father of the child.

(2) A relative of the child.

(3) DSCYF or a licensed agency.

(4) A guardian or permanent guardian of the child.

(48 Del. Laws, c. 135, § 3; 13 Del. C. 1953, § 1104; 49 Del. Laws, c. 57, § 1; 50 Del. Laws, c. 17, § 1; 50 Del. Laws, c. 534, § 2; 59 Del. Laws, c. 466, § 17; 60 Del. Laws, c. 241, § 10; 62 Del. Laws, c. 420, §§ 8, 9; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 32, § 4; 83 Del. Laws, c. 226, § 4.)

§ 1104. Eligibility to petition for termination of parental rights [Effective Dec. 6, 2026].

A petition for the termination of parental rights may be filed by any of the following:

(1) A parent or presumed parent of the child.

(2) A relative of the child.

(3) DSCYF or a licensed agency.

(4) A guardian or permanent guardian of the child.

(48 Del. Laws, c. 135, § 3; 13 Del. C. 1953, § 1104; 49 Del. Laws, c. 57, § 1; 50 Del. Laws, c. 17, § 1; 50 Del. Laws, c. 534, § 2; 59 Del. Laws, c. 466, § 17; 60 Del. Laws, c. 241, § 10; 62 Del. Laws, c. 420, §§ 8, 9; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 32, § 4; 83 Del. Laws, c. 226, § 4; 85 Del. Laws, c. 276, § 115.)

§ 1105. Contents of petition [Effective until Dec. 6, 2026].

(a) A petition for the termination of parental rights must state all of the following:

(1) The petitioner's name and address.

(2) The child's name, date of birth, and place of birth.

(3) The petitioner's relationship to the child or the fact that no relationship exists.

(4) The name and address of each parent or presumed father, or name and address of the organization holding parental rights.

(5) a. If the name and address of the father is not provided under paragraph (a)(4) of this section, a statement with an affidavit from the petitioner must be attached to the petition, stating at least 1 of the following:

1. The mother knows the name of the father but is unwilling to disclose the father's name.

2. The mother does not know the father's name.

3. The mother knows the father's name and has provided it, but the mother has never known the father's address.

4. The mother's husband when the child was conceived or born, if any, is not the child's father.

b. If the mother is unavailable or refuses to provide the information required under paragraph (a)(5)a. of this section, the petition must include as much information that is required under paragraph (a)(5)a. of this section as the petitioner knows.

c. If the name or address of a parent is omitted, the petition must include detailed information on the efforts made to locate the missing name or address. The information must include a statement that the petitioner has inquired to determine if either of the following apply to the individual who gave birth to the child:

1. The individual was married at or after the probable time of the child's conception.

2. The individual named a father on the child's birth certificate.

(6) The name and address of the person or organization having the care, control, or custody of the child.

(7) The ground for termination of parental rights.

(8) If the child's parent, guardian, permanent guardian, or relative petitions under § 1103(a)(6) of this title, a detailed statement of why the child would be a dependent child or neglected child in the respondent's care.

(9) If a petition is filed under § 1103(b) of this title, a detailed statement of the serious physical or emotional harm to the child.

(10) The name and address of the person, DSCYF, or licensed agency to which parental rights are requested to be transferred.

(11) If DSCYF is the petitioner and requesting that both parents' rights be terminated, a statement that the petitioner has explored the possibility of placing the child with relatives and the results of those efforts.

(12) A statement outlining other placement efforts, if any.

(b) An executed consent or written certification under § 1106 of this title or a waiver of notice under § 1106A of this title must accompany the petition as an exhibit.

(c) If DSCYF or a licensed agency is a party to a petition filed under § 1103(a)(1) of this title and each respondent has waived that respondent's right to notice under § 1106A of this title, the petition must be accompanied by a social report prepared under § 1107 of this title.

(d) A petition under this chapter must be accompanied by a notarized written consent executed by the person or organization to which parental rights are requested to be transferred, indicating that the person or organization agrees to accept parental rights over the child until an adoption is finalized, unless the petition is filed under § 1103(b) of this title.

(e) A petition under this chapter in which DSCYF or a licensed agency is not a party must be accompanied by a petition for adoption, unless the petition is filed under § 1103(b) of this title.

(48 Del. Laws, c. 135, § 4; 13 Del. C. 1953, § 1105; 50 Del. Laws, c. 17, § 1; 59 Del. Laws, c. 466, §§ 18, 19; 60 Del. Laws, c. 241, §§ 11, 12; 62 Del. Laws, c. 402, § 9; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 69 Del. Laws, c. 433, § 8; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 171, §§ 5-7; 79 Del. Laws, c. 209, § 1; 83 Del. Laws, c. 226, § 5.)

§ 1105. Contents of petition [Effective Dec. 6, 2026].

(a) A petition for the termination of parental rights must state all of the following:

(1) The petitioner's name and address.

(2) The child's name, date of birth, and place of birth.

(3) The petitioner's relationship to the child or the fact that no relationship exists.

(4) The name and address of each parent or presumed parent, or name and address of the organization holding parental rights.

(5) a. If the name and address of a parent other than the individual who gave birth to the child is not provided under paragraph (a)(4) of this section, a statement with an affidavit from the petitioner must be attached to the petition, stating at least 1 of the following:

1. The individual who gave birth to the child knows the name of the alleged genetic parent but is unwilling to disclose the alleged genetic parent's name.

2. The individual who gave birth to the child does not know the alleged genetic parent's name.

3. The individual who gave birth to the child knows the alleged genetic parent's name and has provided it, but the individual who gave birth to the child has never known the alleged genetic parent's address.

4. The individual who gave birth to the child's spouse at conception or birth of the child is not the child's parent.

b. If the individual who gave birth to the child is unavailable or refuses to provide the information required under paragraph (a)(5)a. of this section, the petition must include as much information that is required under paragraph (a)(5)a. of this section as the petitioner knows.

c. If the name or address of a parent is omitted, the petition must include detailed information on the efforts made to locate the missing name or address. The information must include a statement that the petitioner has inquired to determine if either of the following apply to the individual who gave birth to the child:

1. The individual was married at or after the probable time of the child's conception.

2. The individual named another parent on the child's birth certificate.

(6) The name and address of the person or organization having the care, control, or custody of the child.

(7) The ground for termination of parental rights.

(8) If the child's parent, guardian, permanent guardian, or relative petitions under § 1103(a)(6) of this title, a detailed statement of why the child would be a dependent child or neglected child in the respondent's care.

(9) If a petition is filed under § 1103(b) of this title, a detailed statement of the serious physical or emotional harm to the child.

(10) The name and address of the person, DSCYF, or licensed agency to which parental rights are requested to be transferred.

(11) If DSCYF is the petitioner and requesting that both parents' rights be terminated, a statement that the petitioner has explored the possibility of placing the child with relatives and the results of those efforts.

(12) A statement outlining other placement efforts, if any.

(b) An executed consent or written certification under § 1106 of this title or a waiver of notice under § 1106A of this title must accompany the petition as an exhibit.

(c) If DSCYF or a licensed agency is a party to a petition filed under § 1103(a)(1) of this title and each respondent has waived that respondent's right to notice under § 1106A of this title, the petition must be accompanied by a social report prepared under § 1107 of this title.

(d) A petition under this chapter must be accompanied by a notarized written consent executed by the person or organization to which parental rights are requested to be transferred, indicating that the person or organization agrees to accept parental rights over the child until an adoption is finalized, unless the petition is filed under § 1103(b) of this title.

(e) A petition under this chapter in which DSCYF or a licensed agency is not a party must be accompanied by a petition for adoption, unless the petition is filed under § 1103(b) of this title.

(48 Del. Laws, c. 135, § 4; 13 Del. C. 1953, § 1105; 50 Del. Laws, c. 17, § 1; 59 Del. Laws, c. 466, §§ 18, 19; 60 Del. Laws, c. 241, §§ 11, 12; 62 Del. Laws, c. 402, § 9; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 69 Del. Laws, c. 433, § 8; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 171, §§ 5-7; 79 Del. Laws, c. 209, § 1; 83 Del. Laws, c. 226, § 5; 85 Del. Laws, c. 276, § 116.)

§ 1106. Consent requirements [Effective until Dec. 6, 2026].

(a) In a proceeding under § 1103(a)(1) of this title, consent is required from all of the following:

(1) The mother, father, and, if applicable, presumed father of the child.

a. An admission of paternity is not required for an alleged father's or presumed father's consent. If the alleged father or presumed father denies paternity, the petition must include, in lieu of a consent, an affidavit denying paternity that the alleged father or presumed father signed.

b. If the mother was married when the child was conceived or born, but the mother's husband at conception or birth is not the child's biological father, the husband's notarized statement that the husband is not the child's biological father is prima facie proof that the husband is not the biological father, absent evidence to the contrary. If the husband's notarized statement cannot be obtained, a notice of hearing must be sent to the husband under § 1107 of this title.

c. If a petition contains a statement under § 1105(a)(5)a.1., 2., or 3. of this title and the Court finds, after a hearing and in consideration of the social report, that the child's mother and father are not living together openly as husband and wife and they have not done so and have not married since the child's birth, the Court may waive the requirement of the father's consent.

(2) One parent alone, if the other is deceased.

(3) Another person or organization holding parental rights.

(4) One parent alone if the termination of the other parent's rights is sought on another ground.

(b) If the person in whom the right to consent exists is under the age of 18, this fact is not a bar to the giving of consent and does not render the consent invalid when given, if the requirements under subsections (d) and (e) of this section are met.

(c) A mother whose consent to the termination of parental rights is required may execute a consent only after the child is born. A father or presumed father may execute a consent either before or after the child is born.

(d) A consent by a parent, agency, or organization holding parental rights must be executed in at least 1 of the following ways:

(1) Signed or confirmed in the presence of at least 1 of the following:

a. A judge or commissioner of a court of record.

b. An individual that a judge has designated to take a consent.

c. An employee that an agency has designated to take a consent.

d. A lawyer other than the lawyer representing an adoptive parent or the agency to which parental rights will be transferred.

e. A commissioned officer on active duty in the military service of the United States, if the individual executing the consent is in military service.

f. An officer of the foreign service or a consular officer of the United States in another country, if the individual executing the consent is in that country.

(2) Made orally and accepted by the Court after a review on the record of the information required under § 1106A of this title.

(e) An individual before whom a consent is signed or confirmed under subsection (d) of this section shall certify in writing or orally before the Court that the individual explained the contents and consequences of the consent and, to the best of the individual's knowledge or belief, the individual executing the consent did all of the following:

(1) Read or was read the consent and understood it.

(2) Entered into the consent voluntarily.

(3) If the individual executing the consent is a parent who is a minor, was advised by a lawyer who is not representing an adoptive parent or agency to which parental rights are being transferred.

(f) Once the requirements under subsections (d) and (e) of this section have been met, the consent to termination and transfer of parental rights is irrevocable unless the requirements under § 1106B(a) of this title have been met.

(48 Del. Laws, c. 135, § 6; 13 Del. C. 1953, § 1106; 50 Del. Laws, c. 17, § 1; 59 Del. Laws, c. 466, §§ 20, 21; 61 Del. Laws, c. 178, § 3; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 171, §§ 8, 9; 83 Del. Laws, c. 226, § 6.)

§ 1106. Consent requirements [Effective Dec. 6, 2026].

(a) In a proceeding under § 1103(a)(1) of this title, consent is required from all of the following:

(1) The parent or parents, and, if applicable, presumed parent of the child.

a. An admission of parentage is not required for an alleged genetic parent's or presumed parent's consent. If the alleged genetic parent or presumed parent denies parentage, the petition must include, in lieu of a consent, an affidavit denying parentage that the alleged genetic parent or presumed parent signed.

b. If the individual who gave birth to the child was married when the child was conceived or born, but the individual's spouse at conception or birth is not the child's parent, the spouse's notarized statement that the spouse is not the child's parent is prima facie proof that the spouse is not a parent, absent evidence to the contrary. If the spouse's notarized statement cannot be obtained, a notice of hearing must be sent to the spouse under § 1107 of this title.

c. If a petition contains a statement under § 1105(a)(5)a.1., 2., or 3. of this title and the Court finds, after a hearing and in consideration of the social report, that the child's parents are not living together openly as a married couple and they have not done so and have not married since the child's birth, the Court may waive the requirement of the other parent's consent.

(2) One parent alone, if the other is deceased.

(3) Another person or organization holding parental rights.

(4) One parent alone if the termination of the other parent's rights is sought on another ground.

(b) If the person in whom the right to consent exists is under the age of 18, this fact is not a bar to the giving of consent and does not render the consent invalid when given, if the requirements under subsections (d) and (e) of this section are met.

(c) An individual who gave birth to the child whose consent to the termination of parental rights is required may execute a consent only after the child is born. An alleged genetic parent or presumed parent may execute a consent either before or after the child is born.

(d) A consent by a parent, agency, or organization holding parental rights must be executed in at least 1 of the following ways:

(1) Signed or confirmed in the presence of at least 1 of the following:

a. A judge or commissioner of a court of record.

b. An individual that a judge has designated to take a consent.

c. An employee that an agency has designated to take a consent.

d. A lawyer other than the lawyer representing an adoptive parent or the agency to which parental rights will be transferred.

e. A commissioned officer on active duty in the military service of the United States, if the individual executing the consent is in military service.

f. An officer of the foreign service or a consular officer of the United States in another country, if the individual executing the consent is in that country.

(2) Made orally and accepted by the Court after a review on the record of the information required under § 1106A of this title.

(e) An individual before whom a consent is signed or confirmed under subsection (d) of this section shall certify in writing or orally before the Court that the individual explained the contents and consequences of the consent and, to the best of the individual's knowledge or belief, the individual executing the consent did all of the following:

(1) Read or was read the consent and understood it.

(2) Entered into the consent voluntarily.

(3) If the individual executing the consent is a parent who is a minor, was advised by a lawyer who is not representing an adoptive parent or agency to which parental rights are being transferred.

(f) Once the requirements under subsections (d) and (e) of this section have been met, the consent to termination and transfer of parental rights is irrevocable unless the requirements under § 1106B(a) of this title have been met.

(48 Del. Laws, c. 135, § 6; 13 Del. C. 1953, § 1106; 50 Del. Laws, c. 17, § 1; 59 Del. Laws, c. 466, §§ 20, 21; 61 Del. Laws, c. 178, § 3; 68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 171, §§ 8, 9; 83 Del. Laws, c. 226, § 6; 85 Del. Laws, c. 276, § 117.)

§ 1106A. Contents of consent to terminate and transfer parental rights.

(a) A consent to terminate and transfer parental rights must contain all of the following:

(1) The date, place, and time of the execution of the consent.

(2) The name, date of birth, and current mailing address of the individual executing the consent.

(3) The date of birth and the name or pseudonym of the child.

(4) The name, address, and telephone number of the agency to which parental rights are being transferred.

(5) Information regarding the birth parent's right to file a notarized statement under § 923(b) of this title regarding the child's access to identifying information regarding the birth parent, if the child is adopted.

(6) A statement that the individual executing the consent understands that after the consent is signed and confirmed under § 1106(d) and (e) of this title, it is final and may not be revoked or set aside unless the requirements under § 1106B(a) or (b) of this title have been met.

(7) A statement that the individual executing the consent understands that the termination will extinguish all of that individual's parental rights and obligations with respect to the child, except for arrearages of child support.

(8) A statement that the individual executing the consent has received a copy of the consent.

(9) A statement that the individual executing the consent has not received or been promised money or anything of monetary value for the consent.

(b) A consent may contain 1 or more of the following statements:

(1) The consenting individual waives notice of a proceeding for termination of parental rights under § 1107A of this title.

(2) The consent may be revoked if at least 1 of the following occur:

a. Another consent is not executed within a specified period.

b. A court denies the termination of the other parent's rights in the child.

c. Another condition occurs as agreed upon by each party.

(73 Del. Laws, c. 171, § 10; 83 Del. Laws, c. 226, § 7.)

§ 1106B. Revocation of consent to termination and transfer of parental rights.

(a) A consent may be revoked if any of the following occur:

(1) Within 14 days of executing the consent, the parent who executed the consent delivers written notification of revocation to the agency or individual to which the parental rights are to be transferred.

(2) The parent complies with another instruction for revocation which was specifically stated in the consent under § 1106A(b)(2)c. of this title.

(3) The individual who executed the consent and the agency or individual that accepted the consent agree to its revocation.

(b) The Court shall set aside a consent if the individual who executed the consent establishes at least 1 of the following:

(1) By clear and convincing evidence, before a decree of adoption is issued, that the consent was obtained by fraud or duress.

(2) By a preponderance of the evidence that a condition permitting revocation has occurred, as expressly provided for in the consent under § 1106A(b)(2)c. of this title.

(c) If consent is revoked under this section, the Court must determine custody of the child as follows:

(1) If the individual who executed the consent had legal and physical custody of the child when the consent was executed, legal and physical custody of the child must be immediately returned to the individual, unless the Court finds that the child is a dependent child or neglected child as to the individual.

(2) If the individual who executed the consent did not have legal or physical custody of the child when the consent was executed, custody of the child must revert to the individual or organization that held custody when the consent was executed. If another ground for termination of parental rights exists under § 1103 of this title, the petitioner may proceed on that ground.

(73 Del. Laws, c. 171, § 11; 83 Del. Laws, c. 226, § 8.)

§ 1107. Time for hearing; preparation of social report.

(a) If a petition for the termination of parental rights is filed and DSCYF or a licensed agency is a party to the proceedings, the Court shall set a date for a hearing on the petition and shall cause notice of the time, place, and purpose of the hearing to be served as required under § 1107A of this title. Absent good cause, a social report must be filed no later than 1 week prior to the hearing.

(b) If a petition for termination of parental rights is filed and DSCYF or a licensed agency is not a party, the Court shall order DSCYF or a licensed agency to file a social report within 6 months. The Court shall set a date for a hearing to take place after the report is to be filed, but not earlier than 12 months after the filing of the petition for proceedings under § 1103(a)(6) of this title, and notice must be accomplished under § 1107A of this title.

(c) The information contained in the social report must consider the best interest factors under § 722 of this title and include all of the following:

(1) Information regarding the child and the child's background.

(2) The history of the child's custody, visitation, and living arrangements.

(3) Information regarding the parents.

(4) Information regarding the petitioners.

(5) a. Information regarding efforts at reunification with the parents if the petition is filed under § 1103(a)(5) of this title.

b. Information regarding the allegations of dependency and neglect if the petition is filed under § 1103(a)(6) of this title.

(6) The plan for the child if the petition is granted.

(7) A statement that the person preparing the social report or the petitioner has advised each birth parent whose name and whereabouts are known to the petitioner of the birth parent's right to file a written notarized statement with the Office of Vital Statistics denying the release of identifying information under § 923(b) of this title.

(48 Del. Laws, c. 135, § 6; 12 Del. C. 1953, § 1107; 50 Del. Laws, c. 17, § 1; 59 Del. Laws, c. 466, § 22; 60 Del. Laws, c. 251, § 13; 62 Del. Laws, c. 402, § 4; 64 Del. Laws, c. 108, §§ 6, 10; 66 Del. Laws, c. 356, § 1; 68 Del. Laws, c. 276, § 1; 73 Del. Laws, c. 171, §§ 12, 17; 83 Del. Laws, c. 226, § 9.)

§ 1107A. Notice of hearing to terminate and transfer parental rights [Effective until Dec. 6, 2026].

(a) Notice of the time, place, and purpose of the hearing must be served upon the parent, person, or organization holding parental rights at the respondent's last known address or to the address recited in the petition, unless the respondent has waived the notice under § 1106A(b) of this title. The Court may require notice to be served on another person.

(b) If a petition is filed under § 1103(a)(6) of this title, notice must include both of the following:

(1) Information from the detailed statement required under § 1105(a)(8) of this title sufficient to put the respondent on notice of the allegations made against the respondent.

(2) A statement that the respondent has an opportunity to cure the alleged dependency or neglect through conduct subsequent to the filing of the petition.

(c) If, at any time in a proceeding for termination of parental rights, the Court finds that an unknown parent of the child may not have received notice, the Court shall determine whether the parent can be identified. The determination must be based on a review of all of the following:

(1) The information required under § 1105(a)(5)c. of this title.

(2) If another parent has filed for or received payments or promises of support, other than from a governmental agency, with respect to the child or because of the pregnancy.

(3) If an individual has formally acknowledged or claimed parentage of the child.

(d) If inquiry under subsection (c) of this section identifies a parent of the child who has not received notice of the proceeding, the Court shall require notice to be served on the parent under this section.

(e) If, in an inquiry under this section, the woman who gave birth to the child and who is consenting to the termination of the woman's parental rights fails to disclose the identity of an alleged father or reveal his whereabouts, the petitioner must advise the woman of both of the following:

(1) The proceeding for adoption under Chapter 9 of this title may be delayed or subject to challenge if an alleged father is not given notice of the proceeding.

(2) The lack of information about the father's medical and genetic history may be detrimental to the child.

(f) (1) If the Court finds that personal service within the State cannot be accomplished upon the parent or parents, person or persons, or organization holding parental rights, the Court shall then cause notice of the time, place, and purpose of the hearing to be published in at least 1 of the following methods:

a. On a legal notices website established by the Court, for at least 3 successive weeks.

b. In a newspaper of 1 or more counties, as the Court may judge best for giving the parent or parents, or person or persons, or organization holding parental rights notice. The notice must be published once per week, for 3 successive weeks.

(2) The formal wording of a notice under this section must be approved by the Court.

(3) Publication shall also be made in the locality in which the parent or parents, person or persons, or organization holding parental rights is believed to be located if different from the county where the publication just described has been caused.

(4) The Court may, upon the petitioner's request, order that personal service and publication occur simultaneously.

(g) If the Court orders publication under subsection (f) of this section, the Court shall order the Clerk of Court to send a copy of the notice, or a similar notice, of the time, place, and purpose of the hearing to each parent or organization holding parental rights of the child. The notice must be sent meeting all of the following criteria:

(1) By regular and registered or certified mail.

(2) At least 3 weeks prior to the hearing.

(3) At all addresses in the petition given for the parent or organization.

(h) Personal service any time before the hearing is sufficient to give jurisdiction.

(i) Notice provided under this section constitutes conclusive evidence of service and a hearing may proceed at the time and date set, with or without the appearance of the parent, person, or organization so notified.

(j) The Budget Act shall provide DSCYF with appropriated special fund (ASF) authority to provide public notice of court action involving a minor in DSCYF's custody whose parents' whereabouts are unknown, under Family Court rules. The Court may not impose upon DSCYF another fee, cost, or financial obligation for the issuance or service of subpoenas or summons by court rule, regulation, or administrative procedure. Other costs associated with the procedures under this section are the Court's financial responsibility.

(k) A hearing under this chapter must be held privately before the Court, unless the Court determines that sufficient reason exists to hold the hearing publicly.

(73 Del. Laws, c. 171, § 13; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 319, § 1; 83 Del. Laws, c. 96, § 2; 83 Del. Laws, c. 226, §§ 10, 20.)

§ 1107A. Notice of hearing to terminate and transfer parental rights [Effective Dec. 6, 2026].

(a) Notice of the time, place, and purpose of the hearing must be served upon the parent, person, or organization holding parental rights at the respondent's last known address or to the address recited in the petition, unless the respondent has waived the notice under § 1106A(b) of this title. The Court may require notice to be served on another person.

(b) If a petition is filed under § 1103(a)(6) of this title, notice must include both of the following:

(1) Information from the detailed statement required under § 1105(a)(8) of this title sufficient to put the respondent on notice of the allegations made against the respondent.

(2) A statement that the respondent has an opportunity to cure the alleged dependency or neglect through conduct subsequent to the filing of the petition.

(c) If, at any time in a proceeding for termination of parental rights, the Court finds that an unknown parent of the child may not have received notice, the Court shall determine whether the parent can be identified. The determination must be based on a review of all of the following:

(1) The information required under § 1105(a)(5)c. of this title.

(2) If another parent has filed for or received payments or promises of support, other than from a governmental agency, with respect to the child or because of the pregnancy.

(3) If an individual has formally acknowledged or claimed parentage of the child.

(d) If inquiry under subsection (c) of this section identifies a parent of the child who has not received notice of the proceeding, the Court shall require notice to be served on the parent under this section.

(e) If, in an inquiry under this section, the individual who gave birth to the child and who is consenting to the termination of the individual's parental rights fails to disclose the identity of an alleged genetic parent or reveal the alleged genetic parent's whereabouts, the petitioner must advise the individual who gave birth to the child of both of the following:

(1) The proceeding for adoption under Chapter 9 of this title may be delayed or subject to challenge if an alleged genetic parent is not given notice of the proceeding.

(2) The lack of information about the alleged genetic parent's medical and genetic history may be detrimental to the child.

(f) (1) If the Court finds that personal service within the State cannot be accomplished upon the parent or parents, person or persons, or organization holding parental rights, the Court shall then cause notice of the time, place, and purpose of the hearing to be published in at least 1 of the following methods:

a. On a legal notices website established by the Court, for at least 3 successive weeks.

b. In a newspaper of 1 or more counties, as the Court may judge best for giving the parent or parents, or person or persons, or organization holding parental rights notice. The notice must be published once per week, for 3 successive weeks.

(2) The formal wording of a notice under this section must be approved by the Court.

(3) Publication shall also be made in the locality in which the parent or parents, person or persons, or organization holding parental rights is believed to be located if different from the county where the publication just described has been caused.

(4) The Court may, upon the petitioner's request, order that personal service and publication occur simultaneously.

(g) If the Court orders publication under subsection (f) of this section, the Court shall order the Clerk of Court to send a copy of the notice, or a similar notice, of the time, place, and purpose of the hearing to each parent or organization holding parental rights of the child. The notice must be sent meeting all of the following criteria:

(1) By regular and registered or certified mail.

(2) At least 3 weeks prior to the hearing.

(3) At all addresses in the petition given for the parent or organization.

(h) Personal service any time before the hearing is sufficient to give jurisdiction.

(i) Notice provided under this section constitutes conclusive evidence of service and a hearing may proceed at the time and date set, with or without the appearance of the parent, person, or organization so notified.

(j) The Budget Act shall provide Dscyf with appropriated special fund (ASF) authority to provide public notice of court action involving a minor in DSCYF's custody whose parents' whereabouts are unknown, under Family Court rules. The Court may not impose upon DSCYF another fee, cost, or financial obligation for the issuance or service of subpoenas or summons by court rule, regulation, or administrative procedure. Other costs associated with the procedures under this section are the Court's financial responsibility.

(k) A hearing under this chapter must be held privately before the Court, unless the Court determines that sufficient reason exists to hold the hearing publicly.

(73 Del. Laws, c. 171, § 13; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 319, § 1; 83 Del. Laws, c. 96, § 2; 83 Del. Laws, c. 226, §§ 10, 20; 85 Del. Laws, c. 276, § 118.)

§ 1108. Order of termination and transfer of parental rights.

(a) If the Court finds by clear and convincing evidence both that a ground exists for the termination of existing parental rights and termination and transfer of the rights is in the child's best interest, the Court shall order the termination of the rights in the parent, person, or organization in which the rights have existed and transfer the rights to another person, DSCYF, or a licensed agency, as the Court determines is best qualified to receive the rights.

(b) (1) In a proceeding under § 1103(a)(1) of this title in which each individual entitled to consent has waived notice of hearing and the right to appear at the hearing under § 1106(e) of this title, the Court shall issue its decision and order within 30 days after the filing of the petition and social report.

(2) In a proceeding under this chapter that does not qualify under paragraph (b)(1) of this section, the Court shall issue its decision and order within 30 days following the conclusion of the proceeding.

(c) An irregularity in a proceeding under this chapter is deemed cured on the expiration of 6 months from the date of the entry of the order of termination of parental rights of a parent, and a party over whom the Court established personal jurisdiction may not attack the validity of the order, either through a collateral or direct proceeding.

(48 Del. Laws, c. 135, § 7; 13 Del. C. 1953, § 1108; 50 Del. Laws, c. 17, § 1; 56 Del. Laws, c. 300; 64 Del. Laws, c. 108, § 6; 68 Del. Laws, c. 276, § 1; 75 Del. Laws, c. 345, § 1; 83 Del. Laws, c. 226, § 11.)

§ 1109. Petition for transfer of parental rights of deceased parents.

DSCYF or a licensed agency may file a petition to transfer the parental rights of a deceased parent if it appears that adoption is in the best interest of the child. A petition under this section must include all of the following:

(1) Name and address of the petitioner.

(2) Name, date, and place of birth of the child.

(3) Name, address, and date of death of the deceased parent.

(4) A certified copy of the death certificate of the deceased parent.

(5) A statement that the petitioner has explored the possibility of placing the child with relatives and the results of the efforts.

(68 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 171, §§ 14-16; 83 Del. Laws, c. 226, § 12.)

§ 1110. Appeals.

Each party may, at any time within 30 days after the issuance of the written order, take an appeal therefrom to the Supreme Court.

(48 Del. Laws, c. 135, § 8; 13 Del. C. 1953, § 1109; 50 Del. Laws, c. 17, § 1; 68 Del. Laws, c. 276, § 1; 83 Del. Laws, c. 226, § 13.)

§ 1111. Court costs.

Except as provided under § 1107A of this title, the petitioner shall pay all court costs, including costs for giving notice and advertising. As used in this section, "court costs" does not include the respondent's attorney fees.

(13 Del. C. 1953, § 1110; 50 Del. Laws, c. 17, § 1; 68 Del. Laws, c. 276, § 1; 83 Del. Laws, c. 226, § 14.)

§ 1112. Confidential nature of records [Effective until Dec. 6, 2026].

(a) (1) Each court record and docket relating to a proceeding under this chapter is confidential.

(2) The Clerk of the Court shall keep in a sealed container each court record and docket relating to a proceeding under this chapter.

(3) A court record or docket relating to a proceeding under this chapter may be opened only by an order of a judge of the Court.

(b) Nothing in this section may be construed to restrict DSCYF or a licensed agency from releasing nonidentifying information in its records to a party to a termination proceeding under this chapter.

(c) DSCYF or a licensed agency may not release identifying information, such as a name or address, except under at least 1 of the following circumstances:

(1) By court order.

(2) Under § 929 of this title.

(3) Under subchapter III of Chapter 9 of this title.

(d) (1) An adopted individual may file a petition if the adopted individual's health or the health of the adopted individual's blood relative is of concern and the agency refuses to release needed health information to the adopted individual.

(2) A court order may permit an adopted individual to inspect only that part of the Court's or an agency's record containing needed health information if the Court finds that the adopted individual's health information is both of the following:

a. Contained in the Court's or agency record.

b. Needed for the health of the adopted individual or the health of the adopted individual's blood relative.

(3) This section applies to information relating to the identification or location of the adopted individual's biological sibling if the health of the adopted individual or the adopted individual's blood relative depends on the biological sibling's participation in a medical treatment.

(e) (1) A person that wishes to inspect the papers filed in connection with a proceeding under this chapter may petition the Court or the court of original jurisdiction stating the reason for the inspection.

(2) The Court may refer a petition under this section to DSCYF or a licensed agency for investigation and report.

(3) The Court shall issue an order permitting the release of the information requested and establishing the terms under which the information may be released if the Court finds all of the following:

a. Release of the information is necessary.

b. Release of the information will not prejudice the interests of the adopted individual, biological parent, or adoptive parent.

(13 Del. C. 1953, § 1111; 50 Del. Laws, c. 17, § 1; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, §§ 3, 4; 62 Del. Laws, c. 420, § 10; 64 Del. Laws, c. 108, §§ 4, 10; 64 Del. Laws, c. 387, § 2; 68 Del. Laws, c. 276, § 1; 69 Del. Laws, c. 433, §§ 6, 7; 83 Del. Laws, c. 226, § 15.)

§ 1112. Confidential nature of records [Effective Dec. 6, 2026].

(a) (1) Each court record and docket relating to a proceeding under this chapter is confidential.

(2) The Clerk of the Court shall keep in a sealed container each court record and docket relating to a proceeding under this chapter.

(3) A court record or docket relating to a proceeding under this chapter may be opened only by an order of a judge of the Court.

(b) Nothing in this section may be construed to restrict DSCYF or a licensed agency from releasing nonidentifying information in its records to a party to a termination proceeding under this chapter.

(c) DSCYF or a licensed agency may not release identifying information, such as a name or address, except under at least 1 of the following circumstances:

(1) By court order.

(2) Under § 929 of this title.

(3) Under subchapter III of Chapter 9 of this title.

(d) (1) An adopted individual may file a petition if the adopted individual's health or the health of the adopted individual's blood relative is of concern and the agency refuses to release needed health information to the adopted individual.

(2) A court order may permit an adopted individual to inspect only that part of the Court's or an agency's record containing needed health information if the Court finds that the adopted individual's health information is both of the following:

a. Contained in the Court's or agency record.

b. Needed for the health of the adopted individual or the health of the adopted individual's blood relative.

(3) This section applies to information relating to the identification or location of the adopted individual's biological sibling if the health of the adopted individual or the adopted individual's blood relative depends on the biological sibling's participation in a medical treatment.

(e) (1) A person that wishes to inspect the papers filed in connection with a proceeding under this chapter may petition the Court or the court of original jurisdiction stating the reason for the inspection.

(2) The Court may refer a petition under this section to DSCYF or a licensed agency for investigation and report.

(3) The Court shall issue an order permitting the release of the information requested and establishing the terms under which the information may be released if the Court finds all of the following:

a. Release of the information is necessary.

b. Release of the information will not prejudice the interests of the adopted individual, birth parent, or adoptive parent.

(13 Del. C. 1953, § 1111; 50 Del. Laws, c. 17, § 1; 57 Del. Laws, c. 402, § 2; 62 Del. Laws, c. 402, §§ 3, 4; 62 Del. Laws, c. 420, § 10; 64 Del. Laws, c. 108, §§ 4, 10; 64 Del. Laws, c. 387, § 2; 68 Del. Laws, c. 276, § 1; 69 Del. Laws, c. 433, §§ 6, 7; 83 Del. Laws, c. 226, § 15; 85 Del. Laws, c. 276, § 119.)

§ 1113. Effect of termination of parental rights.

(a) Upon the issuance of an order terminating the existing parental rights and transferring the parental rights to another person or organization, all of the rights, duties, privileges, and obligations recognized by law between the person whose parental rights are terminated and the child forever thereafter cease to exist. The person or organization to whom the parental rights are transferred has custody and guardianship of the child, but the custody and guardianship terminate automatically upon the entry of another order transferring parental rights or an order of adoption.

(b) (1) Upon the issuance of an order terminating the existing parental rights and transferring the parental rights to another person or organization, the child loses all rights of inheritance from each parent whose parental rights were terminated and from the parent's collateral or lineal relatives.

(2) A parent whose parental rights are terminated and the parent's collateral or lineal relatives lose all rights of inheritance from the child.

(c) This section does not limit the right of an individual to provide for the disposition of the individual's property by will.

(d) The termination of 1 parent's rights does not affect the other parent's rights.

(13 Del. C. 1953, § 1112; 53 Del. Laws, c. 102, § 4; 68 Del. Laws, c. 276, § 1; 83 Del. Laws, c. 226, § 16.)

§ 1114. Placement for adoption and post-termination placement order.

If the Court issues an order terminating existing parental rights and transferring them to DSCYF or a licensed agency, all of the following must occur:

(1) The agency shall attempt to promptly place the child for adoption.

(2) Every 6 months after the Court issues the order, or more frequently at the Court's discretion, and until an adoption decree, guardianship, or permanent guardianship order is entered, the Court shall convene a hearing or require the agency to submit to the Court a written report that must include at least all of the following:

a. Details of the agency's reasonable efforts toward finalizing a permanency plan.

b. A description of the steps the agency took to achieve the permanency plan.

c. A description of barriers to the permanency plan and how the barriers may be overcome.

(65 Del. Laws, c. 457, § 1; 68 Del. Laws, c. 276, § 1; 79 Del. Laws, c. 234, § 1; 83 Del. Laws, c. 226, § 17.)

§ 1115. Interpretation.

This chapter is intended to promote without undue delay the paramount objective of advancing the best interest of the child, and a question of interpretation must be construed liberally to achieve this legislative intent.

(59 Del. Laws, c. 466, § 23; 62 Del. Laws, c. 420, § 11; 68 Del. Laws, c. 276, § 1; 83 Del. Laws, c. 226, § 18.)

§ 1116. Reinstatement of parental rights.

(a) A petition for reinstatement of parental rights may be filed in Court on behalf of a child if all of the following conditions are met:

(1) The child is at least 14 years old when the petition is filed.

(2) Parental rights in the child are vested in DSCYF when the petition is filed, regardless of the date parental rights were terminated.

(3) The child is in DSCYF custody under Chapter 25 of this title when the petition is filed.

(4) Adoption of the child is not possible or appropriate.

(5) The child consents to the reinstatement.

(6) The parent who is subject to the reinstatement consents.

(7) At least 2 years have elapsed since the final termination of parental rights order or the child is 17 years old.

(b) The Court retains jurisdiction to reinstate parental rights in a case in which the Court previously terminated parental rights. A petition for reinstatement must be filed in the county in which the child's DSCYF custody case is heard.

(c) The child, the child's attorney, or DSCYF may file a petition for reinstatement of parental rights against 1 or both parents.

(d) Notice and service of the petition must be completed under § 3103 of Title 10 and Court rules.

(e) (1) If the factors under subsection (a) of this section are met, the Court shall hold a hearing on the petition for reinstatement of parental rights.

(2) The Court may grant a petition under this section if it finds by clear and convincing evidence that reinstatement is in the best interest of the child.

(f) A petition granted under this section does not affect the validity of the underlying order terminating parental rights.

(g) A parent whose rights are reinstated under this section is not liable for child support for the time period during which the parent's parental rights were terminated.

(h) A cause of action concerning the original termination of parental rights may not be brought against DSCYF, a licensed agency, or another party. Upon the Court's issuance of a final order reinstating parental rights, all of the rights, duties, privileges, and obligations recognized by law between parent and child are reinstated, including rights of inheritance.

(79 Del. Laws, c. 165, § 2; 83 Del. Laws, c. 226, § 19.)

Chapter 13
Illegitimate Children

Subchapter I

General Provisions

§ 1301. Legitimating child conceived out of wedlock [Effective until Dec. 6, 2026].

A child conceived out of wedlock shall be legitimate if the parents shall marry before the birth of the child or if they shall marry after adjudication or acknowledgment of parentage after the birth of the child, or upon acknowledgment of the paternity made in writing by the parents, if both are living or by the father if the mother is not living and filed in the Office of Vital Statistics according to § 8-302 of this title or § 3121 of Title 16.

(11 Del. Laws, c. 243, § 1; 24 Del. Laws, c. 224, § 1; Code 1915, § 3087; 32 Del. Laws, c. 184, § 7; Code 1935, § 3573; 13 Del. C. 1953, § 1301; 69 Del. Laws, c. 296, § 21; 70 Del. Laws, c. 186, § 1.)

§ 1301. Legitimating child conceived out of wedlock [Effective Dec. 6, 2026].

A child conceived out of wedlock shall be legitimate if the parents shall marry before the birth of the child or if they shall marry after adjudication or acknowledgment of parentage after the birth of the child, or upon an acknowledgment of parentage made in writing by the parents, if both are living or by the living parent if the mother is not living, and filed in the Office of Vital Statistics according to § 8-302 of this title or § 3121 of Title 16.

(11 Del. Laws, c. 243, § 1; 24 Del. Laws, c. 224, § 1; Code 1915, § 3087; 32 Del. Laws, c. 184, § 7; Code 1935, § 3573; 13 Del. C. 1953, § 1301; 69 Del. Laws, c. 296, § 21; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 276, § 120.)

§ 1302. Inheritance from illegitimate person dying intestate [Repealed].

(11 Del. Laws, c. 243, § 1; 24 Del. Laws, c. 224, § 1; Code 1915, § 3087; 32 Del. Laws, c. 184, § 7; Code 1935, § 3573; 13 Del. C. 1953, § 1302; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; repealed by 85 Del. Laws, c. 156, § 5, effective Aug. 21, 2025.)

§ 1303. Inheritance from mother of illegitimate person [Repealed].

(Code 1915, § 3087A; 29 Del. Laws, c. 229, § 1; 30 Del. Laws, c. 200, § 1; Code 1935, § 3574; 13 Del. C. 1953, § 1303; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; repealed by 85 Del. Laws, c. 156, § 6, effective Aug. 21, 2025.)

§ 1304. Inheritance from father of illegitimate person [Repealed].

(11 Del. Laws, c. 243, § 1; 24 Del. Laws, c. 224, § 1; Code 1915, § 3087; 32 Del. Laws, c. 184, § 7; Code 1935, § 3573; 13 Del. C. 1953, § 1304; 55 Del. Laws, c. 179; 70 Del. Laws, c. 186, § 1; repealed by 85 Del. Laws, c. 156, § 7, effective Aug. 21, 2025.)

§ 1305. Father’s liability for maintenance; payment to State Department of Health and Social Services.

The father of an illegitimate child shall be bound to pay the State Department of Health and Social Services all charges it incurs, for maintenance, or otherwise, of such child while under 18 years of age, in accordance with Chapter 28 of Title 31. It may recover the same as any other debt, or by means of any bond of indemnity, given to secure it, under §§ 1326 [repealed] and 1327 [repealed] of this title.

(Code 1852, § 1474; 19 Del. Laws, c. 768, § 1; Code 1915, § 3072; 32 Del. Laws, c. 184, § 1; 37 Del. Laws, c. 189, § 1; Code 1935, § 3558; 13 Del. C. 1953, § 1305; 58 Del. Laws, c. 511, § 23; 70 Del. Laws, c. 186, § 1.)

Subchapter II

Illegitimacy Proceedings

§§ 1321-1335. Proceedings in illegitimacy; jurisdiction and venue; commencement; recognizance for appearance of putative father after birth of child; time of hearing; competency of mother to testify; dying declaration; deposition; competency of putative father to testify; order on putative father; payments; release of putative father on probation bond; commitment to jail for failure to give bond; discharge; approval of bond; filing and notice; appeal; bond and supersedeas; appeal; procedure; appeal; jury trial; appeal; powers of Superior Court; affirmed or amended order; certification by Prothonotary; costs.

Repealed by 59 Del. Laws, c. 567, § 3.

Chapter 15
Divorce and Annulment

§ 1501. Short title.

This chapter shall be known and may be cited as the "Delaware Divorce and Annulment Act."

(59 Del. Laws, c. 350, § 1.)

§ 1502. Purpose; construction.

This chapter shall be liberally construed and applied to promote its underlying purposes, which are:

(1) To promote the amicable settlement of disputes that have arisen between parties to a marriage;

(2) To mitigate the potential harm to spouses and their children caused by the process of legal dissolution of marriage;

(3) To make the law of divorce more effective for dealing with the realities of matrimonial experience by making irretrievable breakdown of the marriage relationship the sole basis for divorce;

(4) To permit dissolution of a marriage where the marriage is irretrievably broken despite the objections of an unwilling spouse;

(5) To award alimony under this chapter to a dependent party but only during the continuance of such dependency;

(6) To award alimony in appropriate cases so as to encourage parties to become self-supporting;

(7) [Repealed.]

(59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 204, § 1; 62 Del. Laws, c. 168, § 1.)

§ 1503. Definitions.

For purposes of this chapter:

(1) "Actually resided" means was domiciled.

(2) "Commencement of the action" means the time of filing the petition.

(3) "Companion animal" means an animal kept primarily for companionship instead of as any of the following:

a. A working animal.

b. A "service animal" as defined in § 4502 of Title 6.

c. An animal kept primarily as a source of income, including "livestock" as defined in § 7700 of Title 3.

(4) "Court" means Family Court of the State.

(5) "Incompatibility" means marital rift or discord that has destroyed the marriage relation, without regard to the fault of either party.

(6) "Mental illness" means mental incapacity or infirmity so destructive of the marriage relation that petitioner cannot reasonably be expected to continue in that relation.

(7) "Misconduct" means conduct so destructive of the marriage relation that petitioner cannot reasonably be expected to continue in that relation; and "misconduct" includes, as examples, adultery, bigamy, conviction of a crime the sentence for which might be incarceration for 1 or more years, repeated physical or oral abuse directed against petitioner or children living in the home, desertion, wilful refusal to perform marriage obligations, contracting venereal disease, habitual intemperance, habitual use of illegal drugs or other incapacitating substances and/or other serious offenses destructive of the marriage relation.

(8) "Separation" means living separate and apart for 6 or more months immediately preceding the ruling upon the petition for a decree of divorce, except that no period of separation is required with respect to a marriage characterized under § 1505(b)(2) of this title; and separation may commence and/or continue while the parties reside under the same roof, provided, during such period, the parties occupy separate bedrooms and do not have sexual relations with each other, except as § 1505(e) of this title may apply.

(9) "Voluntary separation" means separation by mutual consent or acquiescence; but if respondent denies that the separation was voluntary then mutual consent or acquiescence must be established either by written agreement of the parties or by proof of institution by respondent of separate judicial proceedings premised upon respondent's consent to or acquiescence in the separation.

(59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, §§ 1, 2; 60 Del. Laws, c. 331, § 1; 60 Del. Laws, c. 333, § 1; 61 Del. Laws, c. 365, §§ 1, 2; 80 Del. Laws, c. 288, § 1; 84 Del. Laws, c. 51, § 1.)

§ 1504. Jurisdiction; residence; procedure.

(a) The Family Court of the State has jurisdiction over all actions for divorce and annulment of marriage where either petitioner or respondent, at the time the action was commenced, actually resided in this State, or was stationed in this State as a member of the armed services of the United States, continuously for 6 or more months immediately preceding the commencement of the action. Notwithstanding the immediately preceding sentence, in addition to any other basis for jurisdiction it may otherwise have, the Family Court of this State has jurisdiction over all proceedings for divorce and annulment of same-gender marriages that are solemnized in this State or created by conversion of civil unions pursuant to the laws of this State, notwithstanding that the domicile or residency of the petitioner and the respondent are not in this State, if the jurisdiction of domicile or residency of the petitioner and/or the respondent does not by law affirmatively permit such a proceeding to be brought in the courts of that jurisdiction. If neither of the parties to a same-gender marriage

solemnized in this State or created by conversion of a civil union pursuant to the laws of this State reside in this State, any petition for divorce or annulment of such marriage shall be filed in the county in which one or both of such parties last resided in this State.

(b) The procedure in divorce and annulment shall conform to the rules of the Court where the same do not contravene this title.

(13 Del. C. 1953, § 1501; 58 Del. Laws, c. 349, § 1; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, § 3; 60 Del. Laws, c. 333, § 2; 79 Del. Laws, c. 19, § 7.)

§ 1505. Divorce; marriage irretrievably broken and reconciliation improbable; defenses; efforts at reconciliation.

(a) The Court shall enter a decree of divorce whenever it finds that the marriage is irretrievably broken and that reconciliation is improbable.

(b) A marriage is irretrievably broken where it is characterized by:

(1) Voluntary separation; or

(2) Separation caused by respondent's misconduct; or

(3) Separation caused by respondent's mental illness; or

(4) Separation caused by incompatibility.

(c) Previously existing defenses to divorce of condonation, connivance, recrimination, insanity and lapse of time are preserved but only with respect to marriages characterized under paragraph (b)(2) of this section.

(d) The only defense to a divorce action shall be the failure to establish either:

(1) The marriage of the parties; or

(2) Jurisdictional requirements of § 1504 of this title; or

(3) That the marriage is irretrievably broken; or

(4) A defense permitted under subsection (c) of this section because of the characterization of the marriage under paragraph (b)(2) of this section.

(e) Bona fide efforts to achieve reconciliation prior to divorce, even those that include, temporarily, sleeping in the same bedroom and resumption of sexual relations, shall not interrupt any period of living separate and apart, provided that the parties have not occupied the same bedroom or had sexual relations with each other within the 30-day period immediately preceding the day the Court hears the petition for divorce.

(24 Del. Laws, c. 221, § 3; 25 Del. Laws, c. 213, § 2; Code 1915, § 3006; 35 Del. Laws, c. 188, § 1; Code 1935, § 3499; 41 Del. Laws, c. 186, § 1; 43 Del. Laws, c. 206, § 1; 13 Del. C. 1953, § 1522; 49 Del. Laws, c. 57, § 1; 51 Del. Laws, c. 27; 56 Del. Laws, c. 296, §§ 1-3; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 333, §§ 3, 4; 61 Del. Laws, c. 365, §§ 3-5.)

§ 1506. Annulment.

(a) The Court shall enter a decree of annulment of a marriage entered into under any of the following circumstances:

(1) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or infirmity, or because of the influence of alcohol, drugs or other incapacitating substances;

(2) A party lacked the physical capacity to consummate the marriage by sexual intercourse and the other party did not, at the time the marriage was solemnized, know of the incapacity;

(3) A party was less than legal age, if the marriage was not confirmed by such party after reaching legal age;

(4) One party entered into the marriage in reliance upon a fraudulent act or representation of the other party, which fraudulent act or representation goes to the essence of the marriage;

(5) One or both parties entered into the marriage under duress exercised by the other party, or a third party, whether or not such other party knew of such exercise of duress;

(6) One or both parties entered into the marriage as a jest or dare; or

(7) The marriage is prohibited and void or voidable as provided in § 101 of this title.

(b) A decree of annulment may be sought by any of the following persons, and a petition therefor must be filed within the times specified below, but in no event may a decree of annulment be sought after the death of either party to the marriage, except as provided in this section:

(1) For the reasons set forth in either paragraph (a)(1), (4), (5) or (6) of this section, by either party to the marriage who was aggrieved by the condition or conditions, or by the legal representative of the party who lacked capacity to consent, no later than 90 days after petitioner obtained knowledge of the described condition.

(2) For the reason set forth in paragraph (a)(2) of this section, by either party no later than 1 year after petitioner obtained knowledge of the described condition.

(3) For the reason set forth in paragraph (a)(3) of this section, by the underaged party, such underaged party's parent or guardian, no later than 1 year after the date the marriage was entered into.

(4) A decree of annulment for the reason set forth in paragraph (a)(7) of this section may be sought by either party, by the legal spouse in case of bigamous, polygamous or incestuous marriages, by the appropriate state official, or by a child of either party at any time prior

to the death of either party or prior to the final settlement of the estate of either party and the discharge of the personal representative, executor or administrator of the estate, or prior to 6 months after an order of distribution is made under Chapter 23 of Title 12.

(c) Children born of an annulled marriage are legitimate. Marriages annulled under this section shall be so declared as of the date of the marriage.

(d) The provisions of this chapter relating to the property rights of spouses are applicable to annulment.

(e) "Separation" as defined in § 1503 of this title is inapplicable to annulment proceedings; and a petition may be filed whenever a circumstance exists as defined by, and within the time limit specified in, this section.

(24 Del. Laws, c. 213, § 1; 25 Del. Laws, c. 221, § 1; Code 1915, § 3004; Code 1935, § 3497; 13 Del. C. 1953, § 1551; 59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, § 6; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 235, § 3; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 51, § 1.)

§ 1507. Petition for divorce or annulment.

(a) A petition for divorce or annulment of marriage shall be captioned:

IN THE FAMILY COURT OF THE STATE OF DELAWARE

IN AND FOR ..... COUNTY

In re the Marriage of

..... Petitioner,

AND

No. ....., 20.....

..... Respondent.

PETITION FOR DIVORCE (OR ANNULMENT)

(b) The petition shall be verified by petitioner and shall set forth:

(1) The age, occupation and residence (including county in Delaware) of each party and length of residence in the State, showing compliance with the jurisdictional requirements of § 1504(a) of this title;

(2) Address where it is most likely that mail will be received by respondent, or that no such address can be ascertained with reasonable diligence;

(3) Under proper circumstances, that it is unlikely that jurisdiction can be acquired over respondent other than by mailing or publication of notice as provided in § 1508 of this title;

(4) If respondent is a foreign national or has resided in a foreign country within 2 years prior to the filing of the petition, the address of a representative (preferably the nearest) of such foreign country in the United States;

(5) The date of the marriage and the place at which it was registered;

(6) The date on which the parties separated;

(7) The names, ages and addresses of all living children of the marriage and whether the wife is pregnant;

(8) Whether there have been any prior matrimonial proceedings between the parties and, if so, the date, name and place of the Court, and the disposition of the same;

(9) An allegation that the marriage is irretrievably broken and how it is characterized; or if the petition is for annulment, averment of the applicable circumstances specified in § 1506(a) of this title and that the petition has been filed within the applicable time limit recited in § 1506(b) of this title;

(10) Any other relevant facts;

(11) Relief prayed for.

(c) The petition shall be filed either in the county wherein petitioner resides or the county wherein respondent resides.

(d) The petition shall be filed with the Clerk of the Court, along with such deposit to cover costs as the Court may fix, and a praecipe instructing the Clerk how service is to be made or jurisdiction otherwise sought or acquired over respondent.

(e) A petition for divorce may be filed at any time following the separation of the parties if the requirements of § 1504(a) of this title have been satisfied although no ruling shall be made to determine whether to grant a divorce until after the parties have been separated for 6 months; provided, however, that relief under § 1509 of this title shall be available to the parties during the interim.

(f) The relief prayed for under paragraph (b)(11) of this section may include, where appropriate under the facts and law, in addition to a prayer for a decree of divorce or annulment, prayers for other relief that may be available under this chapter, including, without limitation, prayers for interim relief (§ 1509 of this title), alimony (§ 1512 of this title), property disposition (§ 1513 of this title), resumption of prior name (§ 1514 of this title), and costs and attorneys' fees (§ 1515 of this title).

(g) In any case where there are living children of the marriage, the petitioner shall submit with the petition an affidavit signed by the petitioner showing that the petitioner has read or has been advised of the following children's rights, which shall be set forth in full in said affidavit:

(1) The right to a continuing relationship with both parents.

(2) The right to be treated as an important human being, with unique feelings, ideas and desires.

(3) The right to continuing care and guidance from both parents.

(4) The right to know and appreciate what is good in each parent without 1 parent degrading the other.

(5) The right to express love, affection and respect for each parent without having to stifle that love because of fear of disapproval by the other parent.

(6) The right to know that the parents' decision to divorce was not the responsibility of the child.

(7) The right not to be a source of argument between the parents.

(8) The right to honest answers to questions about the changing family relationships.

(9) The right to be able to experience regular and consistent contact with both parents and the right to know the reason for any cancellation of time or change of plans.

(10) The right to have a relaxed, secure relationship with both parents without being placed in a position to manipulate one parent against the other.

(h) In any case where there are living children of the marriage up to the age of 17, the Court shall order that the parties pay for and participate in a "Parenting Education Course" unless the Court, upon motion, determines that participation in the course is deemed not necessary. The "Parenting Education Course" shall be a course which is certified by the Department of Services for Children, Youth and Their Families to meet the goal of educating divorce litigants on the impact on children of the restructuring of families. The course, in order to be certified by the Department of Services for Children, Youth and Their Families, shall consist of at least 4 hours of instruction and at a minimum provide instruction regarding the following items:

(1) Information on the developmental stages of children;

(2) Adjustment of children to parental separation;

(3) Dispute resolution and conflict management;

(4) Guidelines for visitation;

(5) Stress reduction in children; and

(6) Cooperative parenting.

A litigant who has a demonstrable history of domestic violence shall be ordered to participate in a separate and more intensive course which shall include, at a minimum, the topics required in paragraphs (h)(1) through (6) of this section and education regarding domestic violence, its prevention and its effect upon children.

Parties do not have to attend the same course.

(13 Del. C. 1953, § 1502; 58 Del. Laws, c. 349, § 2; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, §§ 4, 5; 61 Del. Laws, c. 365, § 7; 67 Del. Laws, c. 123, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 531, § 1; 76 Del. Laws, c. 96, § 1.)

§ 1508. Obtaining jurisdiction over respondent.

(a) After the filing of the petition, jurisdiction may be acquired over respondent in any of the following ways:

(1) By issuance of summons by the Clerk of the Family Court, and service thereof by the sheriff upon respondent, by delivering a copy of the summons, petition and any affidavit to respondent personally or by delivering copies thereof to an agent authorized by appointment or by law to receive service of process;

(2) By appearance of respondent, either personally or by executing and filing an appearance document in a form approved by the Court, with or without issuance of summons;

(3) By appearance of counsel for respondent, with or without issuance of summons;

(4) Under a court rule not inconsistent with this section.

(b) If the petition avers that it is unlikely that jurisdiction can be acquired over respondent except by mailing and publication, or by publication only, whether respondent is a resident or a nonresident of this State, jurisdiction may be acquired over respondent by mailing and publication, or by publication only, under subsection (d) of this section.

(c) If an effort has been made unsuccessfully to obtain jurisdiction over respondent as provided in subsection (a) of this section, then jurisdiction may be acquired over respondent by mailing and publication, or by publication only, under subsection (d) of this section.

(d) (1) When service is to be made upon respondent by mailing and publication, the Clerk of the Family Court shall do all of the following:

a. Send a copy of the summons, petition, and any affidavit to respondent by registered or certified mail, return receipt requested, to the address that petitioner had averred it is most likely that mail will be received by respondent.

b. Cause a notice in the form that the Court approves to be published on a legal notices website established by the Court or once in a newspaper of general circulation in the county where the action is pending.

(2) If petitioner has averred that such petitioner knows of no address where it is most likely that mail will be received by respondent there shall be no mailing.

(3) No further notice shall be required unless the Court, deeming the circumstances exceptional, requires further notice.

(e) [Repealed.]

(f) When the petition avers that respondent is a resident of this State, the summons shall be delivered to an officer for service in the county where it appears most likely that service can be effected on respondent.

(g) The expense of mailing and publication shall be taxed as part of the costs of the case.

(h) Original process, whether an original, alias or pluries writ, is returnable 20 days after the issuance of the writ, except that the Court by rule, or by order after application for cause shown, may provide that the writ be returnable sooner or later.

(24 Del. Laws, c. 221, § 10; Code 1915, § 3013; Code 1935, § 3506; 43 Del. Laws, c. 205, § 1; 13 Del. C. 1953, § 1512; 58 Del. Laws, c. 349, § 10; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, §§ 6-9; 70 Del. Laws, c. 186, § 1; 83 Del. Laws, c. 96, § 3; 84 Del. Laws, c. 42, § 1.)

§ 1509. Preliminary injunction; interim orders pending final hearing.

(a) Upon the filing of a petition for divorce or annulment, a preliminary injunction shall be issued against both parties to the action, enjoining them from:

(1) Transferring, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life, and requiring the parties to notify the other of any proposed extraordinary expenditures and to account to the Court for all extraordinary expenditures after the preliminary injunction becomes effective; provided, however, that:

a. Subject to the provisions of paragraph (a)(1) of this section, this section shall not preclude a party from taking any action which will affect the disposition of property as a result of such party's death. Such action shall be effective upon written notice (hereinafter the "Notice") to the other party to the divorce or annulment proceeding.

b. If a party dies before entry of a final decree of divorce or annulment, any action affecting the disposition of property as a result of the party's death, which was taken by the party after a preliminary injunction under this section was issued, shall be voidable, to the extent deemed appropriate, in the discretion of a court of competent jurisdiction, unless the parties have otherwise agreed in writing.

c. If any party to a divorce or annulment proceeding dies between the time of entry of the final decree of divorce or annulment and the final resolution of all pending ancillary issues, then:

1. In the case of "marital property," as that term is defined in § 1513(b) of this title, there shall be a rebuttable presumption that the interests of a former spouse in such property shall be superior to the interests of any third-party claimant, payee or beneficiary in such property; and

2. In the case of property that is not "marital property," as that term is defined in § 1513(b) of this title, there shall be a rebuttable presumption that the interests of any third-party claimant, payee or beneficiary in such property shall be superior to the interests of the former spouse in such property.

d. For purposes of this subsection:

1. The Notice shall include a description of all property that will be affected in the event of the party's death, including specific contact information for the individuals or entities who will administer any property that will be affected, including, but not limited to, any trustees, individuals, or other entities administering insurance, accounts or property interests governed by transfer on death provisions, annuities, individual retirement accounts, stock options and qualified or nonqualified employee benefit plans;

2. The Notice shall include language similar to the following: "This Notice is being given to you as required under subsection (a)(1) of Section 1509 of Title 13 of the Delaware Code"; and

3. The Notice shall be delivered to the other party in any manner, including, but not limited to, certified or registered mail, to the last known address of the other party or the other party's attorney in the divorce or annulment proceeding. Said notice shall be effective on the first to occur of the date of delivery or, in the case of delivery by certified or registered mail, the date of the first attempted delivery.

e. Notice shall be required under this subsection for the purpose of allowing the party receiving the Notice an opportunity to:

1. Protect that party's rights under paragraphs (a)(1)a. and c. of this section in the event of the death of the other party to the divorce or annulment proceeding.

2. Take action to dispose of property under such party's control as a result of death as authorized under this section.

f. A companion animal may not be transferred, encumbered, concealed, disposed of, or spayed or neutered without the written agreement of both parties.

(2) Molesting or disturbing the peace of the other party;

(3) Removing any natural or adopted child of the parties then residing in Delaware from the jurisdiction of this Court without the prior written consent of the parties or the permission of the Court;

(4) Utilizing credit cards or otherwise incurring any debt for which the other party is or may be liable except in connection with the marital litigation or necessities of life for the benefit of the party or the parties' minor children.

The preliminary injunction shall be effective against the petitioner upon the filing of the petition for divorce or annulment. The preliminary injunction shall be effective against the respondent upon the first to occur of the following: service of a copy of the petition; the entry of appearance by the respondent or an attorney for the respondent; the filing of a responsive pleading in the action by the respondent or an attorney for the respondent; or any other written acknowledgment of the filing of the petition for divorce or annulment by the respondent or the respondent's attorney.

(b) Petitioner in the petition for divorce or annulment, or by motion filed simultaneously with the petition, or either party by motion filed after the filing of the petition, may move for 1 or more of the following interim orders:

(1) For temporary alimony for the petitioner's own self;

(2) Restraining a party from transferring, encumbering, concealing, or in any way disposing of any property except in the usual course of business, for the necessities of life, or as authorized under paragraph (a)(1) of this section and, if so restrained, requiring that party to notify the moving party of any proposed extraordinary expenditures and to account to the Court for all extraordinary expenditures made after the order is issued;

(3) Enjoining a party from molesting or disturbing the peace of the other party;

(4) Excluding a party from the family home or from the home of the other party even though such party has a legal or equitable interest in the same, upon a showing that physical or emotional harm might otherwise result;

(5) Requiring a party to make available to such party spouse designated personal property and/or fixtures, even though titled in such party's name alone or jointly with someone else, upon such terms and conditions as the Court may impose;

(6) Requiring 1 party to pay such sum to the other party as deemed necessary to defray the other party's expenses in conducting the proceedings;

(7) For support of a child under Chapter 5 of this title;

(8) For custody and/or visitation of a child under Chapter 7 of this title.

(c) A motion shall be accompanied by an affidavit setting forth the factual basis for the motion and any amounts of money requested. The Court may issue any of the above orders solely or collectively without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury would result to the moving party if an order were not issued until the time for responding has elapsed.

(d) Where appropriate under the facts and law, relief afforded a party under paragraphs (b)(1), (3), (4) and/or (5) of this section may be continued and/or included in the relief granted under § 1518(b) of this title.

(Code 1915, § 3015; Code 1935, § 3508; 13 Del. C. 1953, § 1530; 59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, §§ 8, 9; 63 Del. Laws, c. 74, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 426, §§ 1-3; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 51, § 2.)

§ 1510. Enforcement of interim orders.

Whenever there is exhibited to any duly authorized sheriff, constable or police officer a certified copy of an order issued by the Court in an action for divorce, or annulment, enjoining any person from threatening, beating, striking, assaulting any other person, or requiring the person to remove that person's own self from certain premises and to refrain from loitering, entering or remaining near the premises thereafter and the copy of the order shows under signature of the person so serving that a copy of the order has been properly served upon the person named in the order and the person named commits an apparent violation of its terms, it shall be the duty of the sheriff, constable or police officer to take the person named in the order immediately before the Court issuing the order or if that Court is not in session then to the nearest jail until bail is fixed and provided or until the convening of its next session, to await further action for the violation.

(59 Del. Laws, c. 350, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 1511. Response; counterclaim; prayers; reply to counterclaim.

(a) Respondent may file a verified response, move or otherwise plead in answer to the petition, and may counterclaim for divorce or annulment against petitioner, within 20 days after personal service, receipt of service by mail, appearance personally or by counsel, or the date of publication of notice.

(b) Respondent may seek an award of interim relief under § 1509 of this title, alimony where appropriate under § 1512 of this title, disposition of property, attorney's fees, resumption of former name or any other relief available to a petitioner.

(c) Petitioner may reply, move or otherwise plead in response to a counterclaim for divorce or annulment within 20 days after service of the counterclaim.

(d) For good cause shown, the Court may extend the time stipulated for responding to the petition or a counterclaim.

(e) In any case where there are living children of the marriage, the respondent shall submit with the response, or other responsive pleading, an affidavit signed by the respondent showing that the respondent has read or been advised of the children's rights set forth in § 1507(g) of this title, which rights shall be set forth in full in said affidavit.

(13 Del. C. 1953, § 1504; 58 Del. Laws, c. 349, § 4; 59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, § 10; 67 Del. Laws, c. 123, § 2.)

§ 1512. Alimony in divorce and annulment actions; award; limitations.

(a) The Court may award interim alimony to a dependent party during the pendency of an action for divorce or annulment.

(b) A party may be awarded alimony only if such party is a dependent party after consideration of all relevant factors contained in subsection (c) of this section in that the party:

(1) Is dependent upon the other party for support and the other party is not contractually or otherwise obligated to provide that support after the entry of a decree of divorce or annulment;

(2) Lacks sufficient property, including any award of marital property made by the Court, to provide for such party's own reasonable needs; and

(3) Is unable to support the party's own self through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the party not be required to seek employment.

(c) The alimony order shall be in such amount and for such time as the Court deems just, without regard to marital misconduct, after consideration of all relevant factors, including, but not limited to:

(1) The financial resources of the party seeking alimony, including the marital or separate property apportioned to such party, and such party's ability to meet all or part of such party's own reasonable needs independently;

(2) The time necessary and expense required to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;

(3) The standard of living established during the marriage;

(4) The duration of the marriage;

(5) The age, physical and emotional condition of both parties;

(6) Any financial or other contribution made by either party to the education, training, vocational skills, career or earning capacity of the other party;

(7) The ability of the other party to meet that other party's own needs while paying alimony;

(8) Tax consequences;

(9) Whether either party has foregone or postponed economic, education or other employment opportunities during the course of the marriage; and

(10) Any other factor which the Court expressly finds is just and appropriate to consider.

(d) A person shall be eligible for alimony for a period not to exceed 50% of the term of the marriage with the exception that if a party is married for 20 years or longer, there shall be no time limit as to such party's eligibility; however, the factors contained in subsection (c) of this section shall apply and shall be considered by the Court.

(e) Any person awarded alimony has a continuing affirmative obligation to make good faith efforts to seek appropriate vocational training, if necessary, and employment unless the Court specifically finds, after a hearing, that it would be inequitable to require a person awarded alimony to do so:

(1) At any time, due to

a. A severe and incapacitating mental or physical illness or disability or

b. Such person's age, or

(2) Immediately, after consideration of the needs of a minor child or children living with the person awarded alimony.

(f) A party who has in writing before, during or after the marriage waived or released such party's own right to alimony shall have no remedy under this section.

(g) Unless the parties agree otherwise in writing, the obligation to pay future alimony is terminated upon the death of either party or the remarriage or cohabitation of the party receiving alimony. As used in this section, "cohabitation" means regularly residing with an adult of the same or opposite sex, if the parties hold themselves out as a couple, and regardless of whether the relationship confers a financial benefit on the party receiving alimony. Proof of sexual relations is admissible but not required to prove cohabitation. A party receiving alimony shall promptly notify the other party of remarriage or cohabitation.

(13 Del. C. 1953, § 1537; 57 Del. Laws, c. 540, § 2; 59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, § 11; 62 Del. Laws, c. 168, § 2; 66 Del. Laws, c. 414, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 1513. Disposition of marital property; imposition of lien; insurance policies.

(a) In a proceeding for divorce or annulment, the Court shall, upon request of either party, equitably divide, distribute and assign the marital property between the parties without regard to marital misconduct, in such proportions as the Court deems just after considering all relevant factors including:

(1) The length of the marriage;

(2) Any prior marriage of the party;

(3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;

(4) Whether the property award is in lieu of or in addition to alimony;

(5) The opportunity of each for future acquisitions of capital assets and income;

(6) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker, husband, or wife;

(7) The value of the property set apart to each party;

(8) The economic circumstances of each party at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the party with whom any children of the marriage will live;

(9) Whether the property was acquired by gift, except those gifts excluded by paragraph (b)(1) of this section;

(10) The debts of the parties; and

(11) Tax consequences.

(b) For purposes of this chapter only, "marital property" means all of the following:

(1) All property acquired by either party subsequent to the marriage, except any of the following:

a. Property acquired by an individual spouse by bequest, devise, or descent or by gift, including a gift in trust (but excluding gifts between spouses that are made outright and free from trust), if any of the following apply:

1. The gifted property is titled and maintained in the sole name of the donee spouse.

2. The gifted property is held in a trust created by another person, of which trust the donee spouse is a beneficiary, regardless of whether other individuals are beneficiaries of the same trust.

3. A gift tax return is filed reporting the transfer of the gifted property in the sole name of the donee spouse or in a trust of which the donee spouse is a beneficiary.

4. A notarized or other validly-executed document, executed before or contemporaneously with the transfer, is offered demonstrating the nature of the transfer.

5. Unless the trust instrument expressly provides otherwise, the gifted property is held in a trust created by a donor spouse, of which trust the donee spouse is a beneficiary, regardless of whether other individuals are beneficiaries of the same trust.

b. Property acquired in exchange for property acquired prior to the marriage.

c. Property excluded by valid agreement of the parties.

d. The increase in value of property acquired prior to the marriage.

(2) All jointly-titled real property acquired by the parties prior to their marriage, unless excluded by valid agreement of the parties. For purposes of this paragraph (b)(2), "jointly-titled real property" includes joint tenancy, tenancy in common, and any other form of co-ownership.

(c) All property acquired by either party subsequent to the marriage is presumed to be marital property regardless of whether title is held individually or by the parties in some form of co-ownership such as joint tenancy, tenancy in common or tenancy by the entirety. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in paragraphs (b)(1)a. through d. of this section. Property transferred by gift from 1 spouse to the other during the marriage is marital property.

(d) The Court may also impose a lien or charge upon the marital property assigned to a party as security for the payment of alimony or other allowance or award for the other party.

(e) The Court may also direct the continued maintenance and beneficiary designations of existing policies insuring the life of either party. The Court's power under this subsection shall extend only to policies originally purchased during the marriage and owned by or within the effective control of either party.

(f) The Court may order a party to execute and deliver any deed, document or other paper necessary to effectuate an order entered under this chapter, and if the party so ordered fails to do what such party has been ordered to do, the Court, in addition to any penalty or sanction it may decide to impose upon that party for such disobedience, may direct the Clerk of the Court to do what the party was ordered to do, and such performance by the Clerk shall be as effective as the performance of the party would have been.

(g) (1) If the Court finds that a companion animal of the parties is marital property, it shall award ownership of and responsibility for the companion animal to 1 or both of the parties and may include responsibility for veterinary or other extraordinary expenses.

(2) In issuing an order under paragraph (g)(1) of this section, the Court shall take into consideration the well-being of the companion animal. In determining the well-being of the companion animal, the Court may consider factors such as:

a. The ability of each party to own, support, and provide necessary care for the companion animal.

b. The attachment between the companion animal and each of the parties.

c. The time and effort each party spent with the companion animal during the marriage tending to the companion animal's needs.

(3) If the parties are awarded a shared interest in a companion animal, the Court shall limit the subsequent disposition of the companion animal to the following:

a. The parties may jointly transfer their combined interests to a third party.

b. One party may in writing irrevocably surrender their interest to the other party.

c. Upon the death of 1 party, all interest shall transfer to the surviving party.

d. Upon a substantial change of circumstances, either party may petition the Family Court to be awarded sole ownership based upon the welfare of the companion animal and the totality of the circumstances.

(h) A spouse's beneficial interest in property held in a trust created by another person, which property interest is described in § 3315(b) of Title 12, is not property acquired by the spouse.

(24 Del. Laws, c. 221, §§ 15, 16; 25 Del. Laws, c. 213, § 4; Code 1915, §§ 3018, 3019; Code 1935, §§ 3511, 3512; 13 Del. C. 1953, § 1531; 57 Del. Laws, c. 540, § 1; 59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, §§ 12, 13; 66 Del. Laws, c. 246, §§ 1-4; 69 Del. Laws, c. 55, §§ 1-3; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 237, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 51, § 3; 84 Del. Laws, c. 182, § 12; 85 Del. Laws, c. 160, § 6.)

§ 1514. Resumption of maiden or former name.

The Court, upon the request of a party by pleading or motion, may order that such party resume a maiden or former name.

(24 Del. Laws, c. 221, § 25; Code 1915, § 3028; Code 1935, § 3521; 13 Del. C. 1953, § 1536; 58 Del. Laws, c. 349, § 12; 59 Del. Laws, c. 350, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 254, § 2.)

§ 1515. Attorneys' fees.

The Court from time to time after considering the financial resources of both parties may order a party to pay all or part of the cost to the other party of maintaining or defending any proceeding under this title and for attorneys' fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after the entry of judgment. The Court may order that the amount be paid directly to the attorney, who may enforce the order in such attorney's own name.

(Code 1915, § 3015; Code 1935, § 3508; 13 Del. C. 1953, § 1530; 59 Del. Laws, c. 350, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 1516. Hearings; use of masters; impoundment; assignment of counsel.

(a) All hearings and trials shall be private, but for reasons appearing sufficient to the Court any hearing or trial may be opened to any person who has a direct and legitimate interest in the particular case, or a legitimate educational or research interest in the work of the Court.

(b) A judge or commissioner, sitting without a jury, shall conduct all hearings and trials where there is a contest, and in those proceedings that are uncontested.

(c) Whenever it seems appropriate, in the interest of justice, the Court may designate a disinterested attorney to defend, or otherwise participate in, a proceeding before the Court, and a fee for such attorney shall be taxed as part of the costs.

(d) No record or evidence in any case shall be impounded or access thereto refused.

(13 Del. C. 1953, §§ 1505-1507; 58 Del. Laws, c. 349, §§ 5-7; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 333, § 5; 61 Del. Laws, c. 365, § 14; 76 Del. Laws, c. 59, § 1.)

§ 1517. Contested and noncontested petitions; opportunity for counseling; review of record; disposition of prayers for relief.

(a) Whenever the petition for divorce or annulment is not contested by respondent, the allegations thereof are presumed to be accurate and true, and the Court shall rule upon the petition either after a hearing at which only petitioner need testify, or without a hearing after the submission of a request for finalization and affidavit which reaffirms the petition and verifies service of process and military status of the respondent. If petitioner's testimony or the affidavit fails to support the petition in any essential respect, the Court may deny the petition or require corroborating testimony or other evidence before ruling thereon.

(b) In contested cases, after a hearing the Court shall:

(1) Rule upon the petition; or

(2) Continue the matter with the consent of both parties for further hearing not more than 60 days later so that the parties may seek counseling, either with a qualified private counselor or an accredited counseling agency, public or private. No party who objects shall be forced to submit to counseling, and all counseling or interviews shall be confidential and privileged and only the fact that further efforts at reconciliation are impractical or not in the interest of the parties shall be reported to the Court. At the adjourned hearing the Court shall finally determine whether the marriage is irretrievably broken.

(c) Before entering a decree the Court shall review the record to determine that:

(1) The averments of the petition satisfy § 1504(a), § 1505 or § 1506, and § 1507 of this title;

(2) Jurisdiction has been acquired over respondent under § 1508 of this title;

(3) In uncontested cases, whether the time for respondent to file a responsive pleading has expired;

(4) The parties to a divorce proceeding have continued to be separated since the commencement of this action, except as § 1505(e) of this title may apply;

(5) A certified copy of the parties' marriage record has been filed; and

(6) The affidavit of nonmilitary service, wherever required by federal statute, has been filed.

(d) Where either party has requested property disposition, alimony or other relief provided for in this title, and a decree of divorce or annulment shall be entered, or if such a decree is refused and, nevertheless, the Court deems it appropriate to enter an order concerning some or all of the relief requested, the Court shall finally determine such requests for relief.

(59 Del. Laws, c. 350, § 1; 61 Del. Laws, c. 365, §§ 15-17; 74 Del. Laws, c. 254, § 1.)

§ 1518. Decree in divorce or annulment proceedings; costs; notice of entry; effect on mentally incompetent spouse; effect on subsequent petitions; temporary alimony.

(a) A decree granting or denying a petition for divorce or annulment is final when entered, subject to the right of appeal. An appeal that does not challenge the decree of divorce or annulment, but challenges only rulings with respect to relief awarded under other sections of this chapter, or other matters incidental or collateral to such decree, shall not delay the finality of the decree of divorce or annulment, and the parties may remarry while the appeal is pending.

(b) Whenever the Court enters a decree granting a petition for divorce or annulment, a certified copy of such decree shall be made available to the parties within 30 days after such ruling; but following a contested proceeding, such a copy of the decree shall only be made available to the parties 30 days after such ruling, and after the furnishing of such proof as the Court may require that no appeal challenging the decree of divorce or annulment is pending.

(c) In the decree granting or denying a petition for divorce or annulment, or by separate order or orders preceding or following such decree, the Court shall dispose of all other prayers for relief, where appropriate under the facts and law; but an application for such relief and a hearing thereon must be presented in the petition or response, or by motion after notice to the other party prior to the entry or denial of such decree.

(d) Court costs, including any fee for the services of an attorney allowed by the Court, shall be taxed by the Court at or about the time of the granting or denial of the decree of divorce or annulment, at the time of disposition of other prayers for relief in accordance with subsection (c) of this section, following the disposition of an appeal, or at such other time or times as the Court may deem appropriate.

(e) The Clerk of the Family Court shall give notice of the entry of a decree of divorce or annulment:

(1) If the marriage is registered in this State, to the clerk of the peace of the county where the marriage is registered and such clerk shall enter the fact of divorce or annulment in such clerk's records; or

(2) If the marriage is registered in another jurisdiction, to the appropriate official of that jurisdiction, with the request that such official enter the fact of divorce or annulment in the appropriate record.

(f) No decree that may enter shall relieve a spouse from any obligation imposed by law as a result of the marriage for the support or maintenance of a spouse adjudicated to be mentally incompetent prior to the decree, unless such spouse has sufficient property or means of support.

(g) A decree denying a petition for divorce or annulment shall not foreclose a subsequent petition for such relief if the subsequent petition involves factual or legal premises not directly or by necessary implication decided by the decree on the former petition.

(h) [Repealed.]

(24 Del. Laws, c. 221, §§ 22, 23; 25 Del. Laws, c. 213, § 6; Code 1915, §§ 3025, 3026; Code 1935, §§ 3518-3519A; 46 Del. Laws, c. 230, §§ 1, 2; 47 Del. Laws, c. 191, § 1; 13 Del. C. 1953, §§ 1533, 1534, 1553; 58 Del. Laws, c. 349, § 11; 59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, § 10; 61 Del. Laws, c. 204, § 2; 61 Del. Laws, c. 365, §§ 18-21; 62 Del. Laws, c. 168, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 216, § 54; 76 Del. Laws, c. 107, § 1; 84 Del. Laws, c. 42, § 1.)

§ 1519. Modification or termination of decree or order; termination of alimony; enforcement of alimony order.

(a) A decree or separate order entered under § 1518 of this title may be modified or terminated only as follows:

(1) Support for a child, only as provided in Chapter 5 of this title, or otherwise;

(2) Custody and/or visitation of a child, only as provided in Chapter 7 of this title, or otherwise;

(3) Property disposition, only upon a showing of circumstances that would justify the opening or vacation of a judgment under the Rules of the Superior Court of this State;

(4) Alimony or any other relief awarded, only upon a showing of real and substantial change of circumstances.

(b) Unless otherwise agreed by the parties in writing and expressly provided in the decree, the obligation to pay future alimony is terminated upon the death of either party or the remarriage of the party receiving alimony.

(c) Any alimony order entered pursuant to § 1512 of this title shall be enforced in this State exclusively by the Family Court in the county wherein the respondent resides or is found, or in the county where petitioner resides if respondent does not reside and cannot be found in this State, regardless of whether such petitioner was the petitioner or the respondent in the divorce action, and such Family Court, on proper showing of either of such petitioner or such respondent or on its own motion, may modify or terminate support obligations formerly decreed by the Superior Court.

(59 Del. Laws, c. 350, § 1; 60 Del. Laws, c. 297, §§ 11, 12; 61 Del. Laws, c. 365, § 22.)

§ 1520. Independence of provisions of decree or temporary order.

If a party fails to comply with a provision of a decree or temporary order, the obligation of the other party to make alimony payments is not suspended; but such other party may move the Court to grant an appropriate order.

(59 Del. Laws, c. 350, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 1521. Decrees of courts of other states and countries.

Full faith and credit shall be given in all the courts of this State to a decree of divorce or annulment of marriage by a court of competent jurisdiction in another state, territory or possession of the United States. Nothing herein contained shall be construed to limit the power of any court of this State to give such effect to a decree of divorce or annulment by a court of a foreign country as may be justified by the rules of international comity.

(24 Del. Laws, c. 221, § 28; Code 1915, § 3032; Code 1935, § 3525; 45 Del. Laws, c. 225, § 1; 13 Del. C. 1953, § 1511; 59 Del. Laws, c. 350, § 1.)

§ 1522. Procedural rights.

(a) All parties to any of the proceedings brought pursuant to this chapter shall possess all the procedural rights which those parties would have heretofore possessed in any of the proceedings brought pursuant to this chapter in the Superior Court of this State including but not limited to the following:

(1) Right to institute and retain complete control of the suit;

(2) Right to select counsel;

(3) Right to appeal to the Supreme Court of this State on the record from interlocutory or final orders for judgment; such appeal shall be in the form and manner provided by the rules of the Supreme Court.

(b) A complete record shall be made of all proceedings in which testimony is taken under this section by a court stenographer, tape recorder or other device which method shall be at the discretion of the Court.

(60 Del. Laws, c. 297, § 13; 67 Del. Laws, c. 151, § 1.)

§ 1523. Time for appeal.

No appeal from an interim or final decree, judgment or order entered pursuant to this chapter shall be received or entertained unless the praecipe, notice of appeal or other document or documents required for the appeal is or are duly filed with the proper appellate court within 30 days after the date of the same.

(61 Del. Laws, c. 365, § 23.)

Chapter 17
Domicile

§ 1701. Adult.

Any person of the age of 21 years, being a citizen of this or any other state of the United States, and who has lived for 2 successive years in this State, and, for the purpose of determining domicile in any county of the State, has lived for 1 year in such county, and who has, during that time, maintained oneself and one's family, shall be held to have acquired a legal domicile therein.

(40 Del. Laws, c. 209, § 1; Code 1935, § 1132; 13 Del. C. 1953, § 1701; 70 Del. Laws, c. 186, § 1.)

§ 1702. Married woman [Repealed].

Repealed by 63 Del. Laws, c. 439, § 1, effective July 23, 1982.

§§ 1703, 1704. Legitimate children; illegitimate children [Repealed].

Repealed by 74 Del. Laws, c. 136, § 1, effective Jan. 1, 2004.

Chapter 19
Uniform Child Custody Jurisdiction and Enforcement Act
Subchapter I
General Provisions

§ 1901. Short title.

This chapter may be cited as the “Uniform Child Custody Jurisdiction and Enforcement Act.”

(73 Del. Laws, c. 426, § 1.)

§ 1902. Definitions.

As used in this chapter:

(1) “Abandoned” means left without provision for reasonable and necessary care or supervision.

(2) “Child” means an individual who has not attained 18 years of age.

(3) “Child custody determination” means a judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) “Child custody proceeding” means a proceeding in which legal custody, physical custody or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under subchapter III of this chapter.

(5) “Commencement” means the filing of the first pleading in a proceeding.

(6) “Court” means the Family Court of the State.

(7) “Home State” means the state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) “Initial determination” means the first child custody determination concerning a particular child.

(9) “Issuing court” means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) “Issuing State” means the state in which a child custody determination is made.

(11) “Modification” means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

(13) “Person acting as a parent” means a person, other than a parent, who:

a. Has physical custody of the child or has had physical custody for a period of 6 consecutive months, including any temporary absence, within 1 year immediately before the commencement of a child custody proceeding; and

b. Has been awarded legal custody by a court or claims a right to legal custody under the law of this State.

(14) “Physical custody” means the physical care and supervision of a child.

(15) “State” means a State of the United States, the District of Columbia, Puerto Rico, the United State Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Tribe” means an Indian tribe or band, or Alaska Native village, which is recognized by federal law or formally acknowledged by a state.

(17) “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

(73 Del. Laws, c. 426, § 1.)

§ 1903. Proceedings governed by other law.

This chapter does not govern a termination of parental rights proceeding related to an adoption proceeding brought by a licensed Delaware agency or an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

(73 Del. Laws, c. 426, § 1; 74 Del. Laws, c. 94, § 1.)

§ 1904. Application to Indian tribes.

(a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of the state shall treat a tribe as if it were a state of the United States for the purpose of applying subchapters I and II of this chapter.

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under subchapter III of this chapter.

(73 Del. Laws, c. 426, § 1.)

§ 1905. International application.

(a) A court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying subchapters I and II of this chapter.

(b) Except as otherwise provided in subsection (c) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under subchapter III of this chapter.

(c) A court of this State need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

(73 Del. Laws, c. 426, § 1.)

§ 1906. Effect of child custody determination.

A child custody determination made by a court of this State that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this State or notified in accordance with § 1908 of this chapter or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

(73 Del. Laws, c. 426, § 1.)

§ 1907. Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

(73 Del. Laws, c. 426, § 1.)

§ 1908. Notice to persons outside State.

(a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication in print or on a legal notices website established by the Court if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

(73 Del. Laws, c. 426, § 1; 83 Del. Laws, c. 96, § 4.)

§ 1909. Appearance and limited immunity.

(a) A party to a child custody proceeding, including a modification proceeding or a petitioner or respondent in a proceeding to enforce or register a child custody determination is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating in the proceeding.

(b) A person who is subject to personal jurisdiction in this State on a basis other than physical presence is not immune from service of process in this State. A party present in this State who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this State.

(73 Del. Laws, c. 426, § 1.)

§ 1910. Communication between courts.

(a) A court of this State may communicate with a court in another state concerning a proceeding arising under this chapter.

(b) The court may allow the parties to participate in the communication. If the parties do not participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(73 Del. Laws, c. 426, § 1.)

§ 1911. Taking testimony in another state.

(a) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other States in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

(73 Del. Laws, c. 426, § 1.)

§ 1912. Cooperation between courts; preservation of records.

(a) A court of this State may request the appropriate court of another state to:

(1) Hold an evidentiary hearing;

(2) Order a person to produce or give evidence pursuant to procedures of that state;

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) Forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented and any evaluation prepared in compliance with the request; and

(5) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this State may hold a hearing or enter an order described in subsection (a) of this section.

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) of this section may be assessed against the parties according to the law of this State.

(d) A court of this State shall preserve the pleadings, findings, orders and decrees with respect to a child custody proceeding until the child attains 18 years of age. A record of any hearing and evidence admitted at any hearing shall be retained for 5 years. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of the records.

(73 Del. Laws, c. 426, § 1.)

§§ 1913-1919. [Reserved.]

Subchapter II

Jurisdiction

§ 1920. Initial child custody jurisdiction.

(a) Except as otherwise provided in § 1923 of this title, a court of this State has jurisdiction to make an initial child custody determination only if:

(1) This State is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(2) A court of another state does not have jurisdiction under paragraph (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under § 1926 or § 1927 of this title; and

a. The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and

b. Substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under paragraph (1) or (2) of this subsection have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under § 1926 or § 1927 of this title; or

(4) No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2) or (3) of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this State.

(c) Physical presence of or personal jurisdiction over a party or a child is not necessary or sufficient to make a child custody determination.

(73 Del. Laws, c. 426, § 1.)

§ 1921. Exclusive, continuing jurisdiction.

(a) Except as otherwise provided in § 1923 of this title, a court of this State which has made a child custody determination consistent with § 1920 or § 1922 of this title has exclusive, continuing jurisdiction over the determination until:

(1) A court of this State determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this State and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(2) A court of this State or a court of another state determines that the child, the child's parents and any person acting as a parent do not presently reside in this State.

(b) A court of this State which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under § 1920 of this title.

(73 Del. Laws, c. 426, § 1.)

§ 1922. Jurisdiction to modify determination.

Except as otherwise provided in § 1923 of this title, a court of this State may not modify a child custody determination made by a court of another state unless a court of this State has jurisdiction to make an initial determination under § 1920(a)(1) or (2) of this title and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under § 1921 of this title or that a court of this State would be a more convenient forum under § 1926 of this title; or

(2) A court of this State or a court of the other state determines that the child, the child's parents and any person acting as a parent do not presently reside in the other state.

(73 Del. Laws, c. 426, § 1.)

§ 1923. Temporary emergency jurisdiction.

(a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under §§ 1920-1922 of this title a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under §§ 1920-1922 of this title. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under §§ 1920-1922 of this title, a child custody determination made under this section becomes a final determination if it so provides and this State becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under §§ 1920-1922 of this title, any order issued by a court of this State under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under §§ 1920-1922 of this title. The order issued in this State remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of this State which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in or a child custody determination has been made by a court of a state having jurisdiction under §§ 1920-1922 of this title, shall immediately communicate with the other court. A court of this State which is exercising jurisdiction pursuant to §§ 1920-1922 of this title, upon being informed that a child custody proceeding has been commenced in or a child custody determination has been made by a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

(73 Del. Laws, c. 426, § 1.)

§ 1924. Notice; opportunity to be heard; joinder.

(a) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of § 1908 of this title must be given to all persons entitled to notice under the law of this State as in child custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this State as in child custody proceedings between residents of this State.

(73 Del. Laws, c. 426, § 1.)

§ 1925. Simultaneous proceedings.

(a) Except as otherwise provided in § 1923 of this title, a court of this State may not exercise its jurisdiction under this subchapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this State is a more convenient forum under § 1926 of this title.

(b) Except as otherwise provided in § 1923 of this title, a court of this State, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to § 1928 of this title. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this State shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this State is a more appropriate forum, the court of this State shall dismiss the proceeding.

(c) In a proceeding to modify a child custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(2) Enjoin the parties from continuing with the proceeding for enforcement; or

(3) Proceed with the modification under conditions it considers appropriate.

(73 Del. Laws, c. 426, § 1.)

§ 1926. Inconvenient forum.

(a) A court of this State which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) The length of time the child has resided outside this State;

(3) The distance between the court in this State and the court in the state that would assume jurisdiction;

(4) The relative financial circumstances of the parties;

(5) Any agreement of the parties as to which state should assume jurisdiction;

(6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a court of this State determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A court of this State may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

(73 Del. Laws, c. 426, § 1.)

§ 1927. Jurisdiction declined by reason of conduct.

(a) Except as otherwise provided in § 1923 of this title, if a court of this State has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) A court of the state otherwise having jurisdiction under §§ 1920-1922 of this title determines that this State is a more appropriate forum under § 1926 of this title; or

(3) No court of any other state would have jurisdiction under the criteria specified in §§ 1920-1922 of this title.

(b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under §§ 1920-1922 of this title.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs or expenses against this State unless authorized by law other than this chapter.

(73 Del. Laws, c. 426, § 1.)

§ 1928. Information to be submitted to court.

(a) Subject to the rules of the court, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number and the date of the child custody determination, if any;

(2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number and the nature of the proceeding; and

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of or visitation with the child and, if so, the names and addresses of those persons.

(b) If the information required by subsection (a) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in paragraphs (a)(1)-(3) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice.

(73 Del. Laws, c. 426, § 1.)

§ 1929. Appearance of parties and child.

(a) In a child custody proceeding in this State, the court may order a party to the proceeding who is in this State to appear before the court in person with or without the child. The court may order any person who is in this State and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside this State, the court may order that a notice given pursuant to § 1908 of this title include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside this State is directed to appear under subsection (b) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

(73 Del. Laws, c. 426, § 1.)

Subchapter III

Enforcement

§ 1930. Definitions.

In this subchapter:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) “Respondent” means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(73 Del. Laws, c. 426, § 1.)

§ 1931. Enforcement under Hague Convention.

Under this subchapter a court of this State may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

(73 Del. Laws, c. 426, § 1.)

§ 1932. Duty to enforce.

(a) A court of this State shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(b) A court of this State may utilize any remedy available under other law of this State to enforce a child custody determination made by a court of another state. The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

(73 Del. Laws, c. 426, § 1.)

§ 1933. Temporary visitation.

(a) A court of this State which does not have jurisdiction to modify a child custody determination, may issue a temporary order enforcing:

(1) A visitation schedule made by a court of another state; or

(2) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If a court of this State makes an order under paragraph (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in subchapter II of this chapter. The order remains in effect until an order is obtained from the other court or the period expires.

(73 Del. Laws, c. 426, § 1.)

§ 1934. Registration of child custody determination.

(a) A child custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the court:

(1) A letter or other document requesting registration;

(2) Two copies, including 1 certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) Except as otherwise provided in § 1928 of this title, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a) of this section, the registering court shall:

(1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) Serve notice upon the persons named pursuant to paragraph (a)(3) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by paragraph (b)(2) of this section must state that:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;

(2) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(3) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) The issuing court did not have jurisdiction under subchapter II of this chapter;

(2) The child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so under subchapter II of this chapter; or

(3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of § 1908 of this title, in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

(73 Del. Laws, c. 426, § 1.)

§ 1935. Enforcement of registered determination.

(a) A court of this State may grant any relief normally available under the law of this State to enforce a registered child custody determination made by a court of another state.

(b) A court of this State shall recognize and enforce, but may not modify, except in accordance with subchapter II of this chapter, a registered child custody determination of a court of another state.

(73 Del. Laws, c. 426, § 1.)

§ 1936. Simultaneous proceedings.

If a proceeding for enforcement under this subchapter is commenced in a court of this State and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under subchapter II of this chapter, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

(73 Del. Laws, c. 426, § 1.)

§ 1937. Expedited enforcement of child custody determination.

(a) A petition under this subchapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) Whether the determination for which enforcement is sought has been vacated, stayed or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number and the nature of the proceeding;

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number and the nature of the proceeding;

(4) The present physical address of the child and the respondent, if known;

(5) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought and, if so, the relief sought; and

(6) If the child custody determination has been registered and confirmed under § 1934 of this title, the date and place of registration.

(c) If the petition seeks emergency relief or expedited scheduling, the provisions of Rule 65.2 of the Family Court Civil Procedure Rules shall apply.

(73 Del. Laws, c. 426, § 1.)

§ 1938. Service of petition and order.

Except as otherwise provided in § 1940 of this title, the petition and order must be served, by any method authorized by law upon respondent and any person who has physical custody of the child.

(73 Del. Laws, c. 426, § 1.)

§ 1939. Hearing and order.

(a) Unless the court issues a temporary emergency order pursuant to § 1923 of this title, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) The child custody determination has not been registered and confirmed under § 1934 of this title and that:

a. The issuing court did not have jurisdiction under subchapter II of this chapter;

b. The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under subchapter II of this chapter; or

c. The respondent was entitled to notice, but notice was not given in accordance with the standards of § 1908 of this title, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under § 1934 of this title but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under subchapter II of this chapter.

(b) The court shall award the fees, costs and expenses authorized under § 1941 of this title and may grant additional relief and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this subchapter.

(73 Del. Laws, c. 426, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1940. Warrant to take physical custody of child.

(a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by § 1937(b) of this title.

(c) A warrant to take physical custody of a child must:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) Direct law-enforcement officers to take physical custody of the child immediately; and

(3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State.

(f) A law-enforcement officer has the authority to enter private property to enforce a warrant to take physical custody of a child.

(g) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

(73 Del. Laws, c. 426, § 1; 83 Del. Laws, c. 461, § 3.)

§ 1941. Costs, fees and expenses.

(a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorneys' fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs or expenses against a state unless authorized by law other than this chapter.

(73 Del. Laws, c. 426, § 1.)

§ 1942. Recognition and enforcement.

A court of this State shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed or modified by a court having jurisdiction to do so under subchapter II of this chapter.

(73 Del. Laws, c. 426, § 1.)

§ 1943. Appeals.

An appeal may be taken from a final order in a proceeding under this subchapter in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under § 1923 of this title, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

(73 Del. Laws, c. 426, § 1.)

Chapter 20
Family Law Commission [Repealed]

(81 Del. Laws, c. 360, § 1; 83 Del. Laws, c. 474, § 1.)

§ 2001. Creation [Repealed].

(64 Del. Laws, c. 481, § 1; 81 Del. Laws, c. 360, § 1; repealed by 83 Del. Laws, c. 474, § 2, effective Oct. 14, 2022.)

§ 2002. Composition [Repealed].

(64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 1, 2; 66 Del. Laws, c. 386, § 1; 72 Del. Laws, c. 153, § 1; 81 Del. Laws, c. 360, § 1; repealed by 83 Del. Laws, c. 474, § 2, effective Oct. 14, 2022.)

§ 2003. Appointment; terms of office [Repealed].

(64 Del. Laws, c. 481, § 1; 65 Del. Laws, c. 175, §§ 3, 4; 66 Del. Laws, c. 386, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 153, § 2; repealed by 83 Del. Laws, c. 474, § 4, effective Oct. 14, 2022.)

§ 2004. Purpose; powers; duties [Repealed].

(64 Del. Laws, c. 481, § 1; repealed by 83 Del. Laws, c. 474, § 5, effective Oct. 14, 2022.)

Chapter 21
Domestic Violence Coordinating Council

§ 2101. Creation.

The General Assembly hereby creates a permanent Domestic Violence Coordinating Council.

(69 Del. Laws, c. 159, § 1.)

§ 2102. Composition [For application of this section, see 81 Del. Laws, c. 241, § 2].

The Council shall consist of the following members:

(1) The Chief Judge of the Family Court;

(2) Two members of the House of Representatives (1 from each caucus) appointed by the Speaker of the House of Representatives.

(3) Two members of the Senate (1 from each caucus) appointed by the President Pro Tempore of the Senate.

(4) The Attorney General;

(5) The Chief Defender;

(6) The Secretary of the Department of Safety and Homeland Security;

(7) A representative of the law-enforcement community appointed by the Secretary of the Department of Safety and Homeland Security;

(8) The President Judge of the Superior Court;

(9) The Commissioner of the Department of Correction;

(10) The Secretary of the Department of Services for Children, Youth and Their Families;

(11) A judicial officer from the Court of Common Pleas to be appointed by the Chief Judge of the Court of Common Pleas.

(12) The Chief Magistrate of the Justice of the Peace Court.

(13) Seven members elected by the Council as follows: 1 member representing victims or survivors of domestic violence, 1 member representing victims or survivors of sexual assault, 1 member representing the health care community, and 4 members of the public.

a. The term of the at-large members elected by the Council shall be 3 years. At-large members may be eligible for reelection.

b. In case of a vacancy before the expiration of an at-large member's term, a successor shall be elected by the Council within 60 days of the vacancy.

c. At-large members may be removed by the Council if they do not attend 2 or more consecutive Council meetings.

(69 Del. Laws, c. 159, § 1; 70 Del. Laws, c. 126, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 44, §§ 1, 2; 72 Del. Laws, c. 66, § 1; 73 Del. Laws, c. 26, §§ 1, 2; 74 Del. Laws, c. 63, §§ 1, 2; 74 Del. Laws, c. 110, § 138; 75 Del. Laws, c. 274, §§ 1, 2; 76 Del. Laws, c. 211, § 1; 77 Del. Laws, c. 102, §§ 1-3; 77 Del. Laws, c. 319, § 1; 79 Del. Laws, c. 166, § 1; 80 Del. Laws, c. 26, § 4; 81 Del. Laws, c. 241, § 1; 83 Del. Laws, c. 321, § 1.)

§ 2103. Purpose; powers; duties.

The Council shall:

(1) Continuously study court services and procedures, law-enforcement procedures and protocol, and criminal justice data collection and analysis as it relates to domestic violence;

(2) Effectuate coordination between agencies, departments and the courts with victims of domestic violence and abuse;

(3) Promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection;

(4) Recommend standards for treatment programs for perpetrators of domestic violence to the Department of Health and Social Services, Department of Services for Children, Youth and Their Families and the Department of Correction;

(5) Review and comment upon legislation relating to domestic violence introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and

(6) Improve the response to domestic violence and abuse so as to reduce the incidents thereof.

(69 Del. Laws, c. 159, § 1.)

§ 2104. Meetings; quorum; officers; committees; procedure.

(a) The Council shall meet at least 4 times per year. Seven members shall constitute a quorum.

(b) The Chairperson shall have the duty to convene and preside over meetings of the Council and prepare an agenda for meetings.

(c) The Chief Judge of the Family Court shall convene the initial meeting of the Council.

(d) At the initial meeting of the Council a Chairperson and Vice Chairperson shall be elected by the Council members. Thereafter, the Council shall elect a Chairperson and Vice Chairperson biennially, at the first meeting of the calendar year in odd-numbered years, to serve a 2-year term. The Vice Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

(e) The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority recommendations and developing implementation plans to achieve the purposes of the Council.

(f) The Council shall promulgate rules of procedure governing its operations, provided that they are in accordance with Chapters 100 and 101 of Title 29.

(1), (2) [Repealed.]

(g) The Council shall submit a written report of its activities and recommendations to the Governor, General Assembly and the Chief Justice of the Supreme Court at least once every year on or before October 15.

(69 Del. Laws, c. 159, § 1; 70 Del. Laws, c. 126, § 3; 72 Del. Laws, c. 66, § 2; 77 Del. Laws, c. 103, § 1; 80 Del. Laws, c. 253, § 1; 83 Del. Laws, c. 321, § 1.)

§ 2105. Fatal and near death incident reviews.

(a) (1) The Council shall have the power to investigate and review, through a review panel, the facts and circumstances of all deaths and near deaths that occur in Delaware as a result of domestic violence. “Near death” means a victim who has suffered life-threatening injuries. Deaths include both homicides and suicides resulting from domestic violence.

(2) The Division of Forensic Science shall submit to the Council a monthly report within 30 days of the last day of the previous month, of all the homicides and suicides that occurred in Delaware. The Attorney General, the Department of Services for Children Youth and Their Families, and any other state or local agency with knowledge of a domestic violence-related death or near-death incident shall report such incident to the Council within 14 days. The review of deaths or near deaths involving criminal investigations will require the authorization of the Attorney General’s office.

(3) Any case involving the death of any child under the age of 18 related to domestic violence will be reviewed jointly by the Child Protection Accountability Commission and the domestic violence fatal incident review panel. The death of a minor will only be reviewed by the domestic violence fatal incident review panel where the minor’s parents or guardians were involved in an abusive relationship and the minor’s death is directly related to that abuse.

(b) (1) There shall be a Fatal Incident Review Team that shall consist of 3 co-chairs to be elected by the Council. In addition to the co-chairs, the Review Team shall consist of:

a. The Attorney General or the Attorney General’s designee.

b. The Chief Defender or the Chief Defender’s designee.

c. The Director of the Division of Family Services or the Director’s designee.

d. The President Judge of the Superior Court, or the President Judge’s designee.

e. The Chief Judge of the Family Court or the Chief Judge’s designee.

f. The Chief Magistrate of the Justice of the Peace Courts or the Chief Magistrate’s designee.

g. The Director of the Division of Substance Abuse and Mental Health, or the Director’s designee.

h. The Commissioner of the Department of Correction or the Commissioner’s designee.

i. A law-enforcement officer to be appointed by the Delaware Police Chiefs’ Council.

j. A treatment provider from a certified batterers’ intervention program appointed by the Council.

k. Two victim advocates appointed by the Council.

l. A victim or survivor of domestic violence appointed by the Council.

m. A licensed health-care professional knowledgeable in the screening and identification of domestic violence cases appointed by the Council.

(2) All members of the Review Team, plus other individuals invited to participate, shall be considered part of the review panel for a particular case or incident. The Review Team shall invite other law-enforcement personnel to serve and participate as full members of a review panel in any case in which a law-enforcement agency has investigated the death or near death under review or any prior domestic violence incident involving the decedent or near death victim. The Review Team may also invite other relevant persons to serve on an ad-hoc basis and participate as full members of the review panel for a particular review. Such persons may include individuals with particular expertise that would be helpful to the review panel, representatives from those organizations or agencies that had contact with or provided services to the individual prior to that individual’s own death or near death, that individual’s abusive partner or family member, and the alleged perpetrator of the death or near death.

(c) A review panel shall be convened by the co-chairs of the Review Team on an as-needed basis and may also be convened by any 2 other members of the Review Team.

(d) As part of any review, a review panel shall have the power and authority to administer oaths and to compel the attendance of witnesses whose testimony is related to the death or near death under review and the production of records related to the death or near death under review by filing a praecipe for a subpoena, through the office of the Attorney General, with the Prothonotary of any County of this State. Such a subpoena will be effective throughout the State and service of such subpoena will be made by any sheriff. Failure to obey such a subpoena will be punishable according to the Rules of the Superior Court.

(e) Each review panel shall prepare a report, to be maintained by the Review Team, including a description of the incident reviewed, and the findings and recommendations of the review panel.

(f) Findings and recommendations by the panel shall be adopted only upon a 60 percent vote of participating members of the review panel.

(g) The Review Team shall establish rules and procedures to govern each review prior to the first review to be conducted. The Review Team shall issue an annual report to the Council summarizing in an aggregate fashion all findings and recommendations made over the year by each review panel and describing any systemic changes that were effectuated as a result of the panels work. The report shall not identify the specific case or case review that led to such findings and recommendations.

(h) The review process, and any records created therein, shall be exempt from the provisions of the Freedom of Information Act in Chapter 100 of Title 29. The records of any such review, including all original documents and documents produced in the review process with regard to the facts and circumstances of each death or near death, shall be confidential, shall be used by the Council only in the exercise of its proper function and shall not be disclosed. The records and proceedings shall not be available through court subpoena and shall not be subject to discovery. No person who participated in the review nor any member of the Council shall be required to make any statement as to what transpired during the review or information collected during the review. Statistical data and recommendations based on the reviews, however, may be released by the Council at its discretion.

(i) Members of the Domestic Violence Coordinating Council, members of the Review Team and members of each review panel, as well as their agents or employees, shall be immune from claims and shall not be subject to any suits, liability, damages or any other recourse, civil or criminal, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted in good faith and without malice in carrying out their responsibilities; good faith is presumed until proven otherwise, with the complainant bearing the burden of proving malice or a lack of good faith. No organization, institution or person furnishing information, data, testimony, reports or records to the review panels or the Council as part of such an investigation shall, by reason of furnishing such information, be liable in damages or subject to any other recourse, civil or criminal.

(70 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 279, §§ 1, 2; 76 Del. Laws, c. 211, § 2; 77 Del. Laws, c. 136, §§ 1-4; 78 Del. Laws, c. 63, §§ 1, 2; 78 Del. Laws, c. 309, § 1; 79 Del. Laws, c. 265, § 13; 80 Del. Laws, c. 187, § 1; 80 Del. Laws, c. 253, § 1; 82 Del. Laws, c. 121, § 1.)

Chapter 22
Division of Child Support Services

(80 Del. Laws, c. 234, § 17.)

§ 2201. Designation of Title IV-D agency.

The Division of Child Support Services is hereby established within the Department of Health and Social Services. Said Division shall constitute the IV-D agency authorized under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.). In addition to the powers and duties described in this chapter, the Division of Child Support Services shall have the power to perform and be responsible for the performance of all duties and functions heretofore vested in the Division of Child Support Enforcement under § 7930 of Title 29 (repealed) and the Bureau of Child Support Enforcement pursuant to Executive Order No. 76, dated June 30, 1975.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2202. Powers and duties.

The Division of Child Support Services may:

(1) Accept, transfer and expend funds made available by the federal or state government or by another public or private source for the purpose of carrying out this chapter;

(2) Adopt rules, regulations and procedures for the provision of child support services;

(3) Initiate legal and administrative actions necessary to implement this chapter; and

(4) Enter into contracts or agreements necessary to implement this chapter.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2203. Title IV-D services.

(a) The Division of Child Support Services may provide all services required or authorized by Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), including parent locator services, determination of paternity, establishment of child support and medical support obligations, review and adjustment of child support orders, enforcement of child support, spousal support and medical support orders, and collection and disbursement of child support payments.

(b) The Division of Child Support Services may enter into agreements or contracts with federal, state or other public or private entities or individuals for the purpose of carrying out its duties and responsibilities under federal and state law.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2204. Support payments.

(a) In compliance with federal and state law, the Division of Child Support Services is authorized to receive and disburse support payments made on behalf of each obligee who is a recipient of public assistance, who signs an application to the Division for child support services pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), or who receives child support pursuant to an income withholding order issued by the Court or Division pursuant to § 513 of this title.

(b) In all cases in which the Division is authorized pursuant to subsection (a) of this section to receive and disburse support payments, the Division may administratively change the payee to the Division. Such change shall not occur until the Division has provided prior notice of the change to all parties under the support order and offered an opportunity for any party to contest the change in payee. The Division shall establish procedures for a party to challenge the administrative change in payee.

(c) A child support obligor shall have no right of reimbursement from the Division of Child Support Services for any child support payment received and disbursed by the Division to an obligee who is not a recipient of public assistance.

(d) Notwithstanding any other law, rule or regulation to the contrary, a child support payment shall not be subject to attachment, garnishment or execution.

(e) In all cases in which the Division administratively changes the payee pursuant to subsection (b) of this section, the Division shall provide notice to all parties under the support order of the date of the obligor's final payment at the following times, when applicable:

(1) Six months from the date of the final payment;

(2) Three months from the date of the final payment; and

(3) Upon receipt of the final payment.

(f) The Division shall establish procedures for applying the notice requirements as listed in subsection (e) of this section.

(g) In all cases when a child support wage attachment is in place, the Division shall immediately notify the noncustodial parent's employer to immediately terminate the wage withholding when the parent's child support obligation has been satisfied.

(h) The Division may recoup payments that it has received and disbursed to a payee but which the payee was not entitled to receive under the child support order. The Division shall give prior written notice to the payee of its intent to recoup. The notice shall state the amount the Division intends to recoup and how it was determined, the manner in which the Division intends to recoup the funds, and inform the payee of that payee's right to an administrative hearing prior to any recoupment. If the payee fails to timely request a hearing, recoupment may proceed as described in the notice. The Division may recoup such payments by withholding not more than

10% of each disbursement due to the payee until the Division is reimbursed in full. Except as otherwise provided herein, all hearings and proceedings under this subsection shall be in accordance with the provisions of the Administrative Procedures Act, Chapter 101 of Title 29. Recoupment shall not apply to payments received and disbursed pursuant to the terms of a child support order that is later modified.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 278, § 2; 73 Del. Laws, c. 342, § 1; 76 Del. Laws, c. 298, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2204A. Disbursement of support payments.

(a) (1) The Division of Child Support Services may establish a process to transfer support payments electronically to an account designated by the obligee of the support order or to an alternate account that can be accessed by the obligee through an electronic access card. The electronic transfer of support payments shall begin when the Department of Health and Social Services certifies all necessary steps in the process are established and complete.

(2) For the purposes of this chapter, an "obligee" is considered a resident parent, a dependent, legal guardian, caretaker relative having custody of or responsibility for the child, custodian or trustee, conservator representing the custodial parent and child directly with a legal and fiduciary duty, or alternate caretaker designated in a record by the custodial parent for a dependent's support as long as the obligation of support exists.

(b) When the process for electronic transfer of support payments is certified by the Department of Health and Social Services and takes effect, all payments disbursed by the Division to an obligee shall be by electronic transfer of support payments unless the Division grants a hardship exemption. Before the date on which electronic transfer of support payments takes effect, the Division shall provide a notice to each obligee to whom it disburses support payments that includes the following:

(1) That the obligee has 20 days after the date of the notice to complete an authorization for automatic deposit form and return it to the Division, and that if the obligee does not authorize direct deposit, the Division will issue an electronic access card for receipt of support payments unless the obligee claims a hardship exemption as provided herein.

(2) That a request for a hardship exemption must be in writing and include documentation that supports the request.

(3) Information on the use and restrictions associated with the use of an electronic access card.

(c) The Division may disburse a support payment by check if any of the following conditions applies:

(1) Payment by check is necessary to meet federal requirements and electronic transfer is not feasible.

(2) The obligee is involved in legal proceedings that require payments to be sent to a trustee or representative payee.

(3) The obligee has not requested automatic deposit to a designated account of the obligee and has asserted in writing that the use of an electronic access card will create an undue hardship because of a documented physical or mental disability.

(4) Payments on the support account are made so infrequently that the Division determines that disbursement of payments by electronic transfer is impracticable.

(d) The Division may adopt policies to implement the process for payment by electronic process.

(e) For the purposes of this section, "electronic access card" means a stored value card that is issued by the Division and in which support payments are deposited electronically in the same manner as automatic or direct deposit.

(77 Del. Laws, c. 277, § 1; 80 Del. Laws, c. 234, § 17; 81 Del. Laws, c. 335, § 2; 84 Del. Laws, c. 42, § 1.)

§ 2205. Administrative authority.

(a) In all cases enforced under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the Division of Child Support Services is authorized to take the following actions for the purpose of establishing paternity or establishing, modifying or enforcing a support order, without the necessity of obtaining a Court order:

(1) Order genetic testing for the purpose of establishing paternity;

(2) Request, and obtain access to, information on the employment, residential address, Social Security number, compensation and benefits of any employee or contractor of an entity in the State, including for-profit, nonprofit and governmental employers, and any member of a labor organization;

(3) Request, and obtain access to, information contained in the records of state and local government agencies regarding a putative father, an obligor or an obligee, which includes, but is not limited to, the following:

a. State income tax returns and all other state income tax information including, but not limited to, documents or records provided in support of a tax return by an employer, financial institution, or other holder or source of income;

b. Division of Motor Vehicles information including, but not limited to, proper name spelling, physical description, date of birth, location and date of last contact with the Division of Motor Vehicles, license expiration date, vehicle registration, violations and warrants;

c. Public housing authority records;

d. Vital statistics records and information including, but not limited to, birth, marriage, divorce and death records;

e. Criminal history record information including, but not limited to, arrest, conviction, incarceration, parole and employment information;

f. Credit bureau information including, but not limited to, credit history and locations and dates of credit application;

g. Deed or title registry records; and

h. Any other information deemed necessary by the Division to assist in administering the child support program;

(4) Request, and obtain access to, information contained in the records of financial institutions with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought);

(5) Issue an administrative subpoena to any individual, state or local government agency, private company, institution or other entity seeking financial or other information needed to establish paternity or to establish, modify or enforce a support order;

(6) Issue an administrative subpoena, pursuant to paragraph (a)(5) of this section, seeking the name, Social Security number, residential address, employer and employment address of any parent or custodian that appears in the customer records of a public utility or a cable television company;

(7) Order income withholding pursuant to § 513(b)(12) of this title, including income withholding against a lump sum payment to satisfy any arrears or retroactive support, where the lump sum payment is not included in the existing calculation of support; and

(8) Institute collection procedures pursuant to § 2207 of this title.

(b) Any individual, state or local government agency, private company, institution or other entity providing information in response to a request by the Division or an administrative subpoena issued by the Division shall be immune from any civil or criminal liability based on such compliance unless the individual, state or local government agency, private company, institution or other entity knowingly provided false information.

(c) If any individual, private company, institution or other entity fails to comply with an administrative subpoena issued by the Division of Child Support Services, the Division may compel compliance with said subpoena by filing a motion to compel in the Family Court, which shall have jurisdiction to hear such actions. The Family Court may order costs, attorney's fees and/or a civil fine not to exceed $1,000 if the motion to compel is granted.

(d) Upon request, the Division of Child Support Services shall make available information, as provided in this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S. C. § 651 et seq.).

(e) Information obtained by the Division of Child Support Services under this section shall be used only for purposes related to the child support program administered pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.).

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 307, § 2; 80 Del. Laws, c. 234, § 17.)

§ 2206. Confidentiality of records.

(a) Except as provided by subsection (b) of this section, all files and records of services provided under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), including information related to a custodial parent, noncustodial parent, child, and an alleged, putative, or presumed father, are confidential, and for purposes of the Freedom of Information Act, Chapter 100 of Title 29, these files and records are specifically exempted from public disclosure.

(b) The Division of Child Support Services may use or release information from the files and records for purposes directly connected with the administration of the child support program, including the release of information to other state agencies operated pursuant to Title IV-D of the Social Security Act. The Division may also release information from its files and records to a consumer reporting agency in accordance with § 2217 of this title.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2207. Enforcement by the Division of Child Support Services.

The Division of Child Support Services is hereby authorized to initiate enforcement of any child or spousal support order issued by a Court or administrative agency of this or any other state or jurisdiction that is being enforced pursuant to Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.). Said enforcement shall include, but not be limited to, income withholding initiated pursuant to § 513 of this title; administratively adding an amount to be paid toward arrears in addition to any current support amount ordered; demand letters; initiation of contempt proceedings; use of state and federal income tax refund intercept programs; use of attachment, levy and garnishment; use of a private collection agency or contractor; and any other civil remedy available for the enforcement of judgments or for the enforcement of support orders.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2208. State Directory of New Hires.

(a) *General.* — There is hereby established within the Division of Child Support Services an automated directory (to be known as the "State Directory of New Hires") which shall contain information supplied by employers pursuant to § 1154(i) of Title 30.

(b) *Entry of information into data base.* — Within 5 business days of receipt of a report supplied by an employer pursuant to § 1156A of Title 30, information included in the report shall be entered into the data base maintained by the State Directory of New Hires.

(c) *Information comparisons.* — The State Directory of New Hires shall, directly or by contract, conduct automated comparisons of the Social Security numbers reported by employers pursuant to § 1156A of Title 30 and the Social Security numbers appearing in the records of the State case registry. When an information comparison reveals a match with respect to the Social Security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the Division of Child Support Services with the name, address and Social Security number of the employee to whom the Social Security number is assigned, the date services for

remuneration were first performed by the employee, and the name, address and identifying number assigned under § 6109 of the Internal Revenue Code of 1986 (26 U.S.C. § 6109) to the employer.

(d) *Provision of information to the National Directory of New Hires.* — Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires established pursuant to § 453(i) of Title IV, Part D, of the Social Security Act (42 U.S.C. § 653(i)). On a quarterly basis, the State Directory of New Hires shall also furnish to the National Directory of New Hires extracts of the reports required under § 303(a)(6) of the Social Security Act [42 U.S.C. § 503(a)(6)] to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as prescribed by federal regulation.

(e) *Uses of new hire information.* — The State Directory of New Hires shall make the specified information available to the following entities for the purposes described below.

(1) The State Directory of New Hires shall provide information derived from the comparison conducted pursuant to subsection (c) of this section to the Division of Child Support Services, which shall use the information to locate individuals for purposes of establishing paternity and establishing, modifying and enforcing child support obligations.

(2) The State Directory of New Hires shall grant access to information provided by employers pursuant to § 1156A of Title 30 to the state agency responsible for administering a program specified in 42 U.S.C. § 1320b-7(b) for purposes of verifying eligibility for the program.

(3) The State Directory of New Hires shall grant access to information provided by employers pursuant to § 1156A of Title 30 to the State Division of Unemployment Insurance for the purpose of administering the State's unemployment insurance services program and the State Division of Industrial Affairs for the purpose of administering the Workers' Compensation Program.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 311, § 1; 80 Del. Laws, c. 234, § 17; 83 Del. Laws, c. 107, § 2.)

§ 2209. Notice of income withholding and National Medical Support Notice.

Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires pursuant to § 2208(b) of this title, the Division shall transmit a notice to the employer of an employee whose child support obligation is subject to enforcement by the Division directing the employer to withhold from the income of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation or retroactive support) of the employee, unless the employee's income is not subject to withholding under § 513(b)(1) of this title and transfer the National Medical Support Notice to the employer.

(71 Del. Laws, c. 216, § 1; 73 Del. Laws, c. 338, §§ 12, 13.)

§ 2210. Administrative enforcement in interstate cases.

(a) The Division of Child Support Services may request the child support agency of a state or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), to enforce a child or spousal support order entered by a tribunal in Delaware or in another state or jurisdiction. Such a request shall constitute a certification by the Division of the amount of arrears and retroactive support, of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

(b) The Division of Child Support Services may request the child support agency of a state or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.) to enforce and recognize a child support lien. Such a request shall constitute a certification by the Division of the amount of arrears, and retroactive support of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

(c) The Division of Child Support Services shall establish procedures to respond to a request for enforcement from a child support agency of a state or jurisdiction outside of Delaware established pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), without the necessity of registering the order or lien with the Court. Such a request shall constitute a certification by the requesting State of the amount of arrears, and retroactive support of the existence of a child support lien, and of compliance with all procedural due process requirements applicable to the case.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2211. Maintenance of records.

The Division of Child Support Services shall maintain such records as may be required by federal and state law.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2212. Financial institution data matches.

(a) The Division of Child Support Services shall enter into agreements with financial institutions doing business within this State to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution shall:

(1) Provide once for each calendar quarter the name, record address, Social Security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as previously identified to each financial institution by the State by name and Social Security number or other taxpayer identification number; and

(2) In response to a notice of a lien or levy, encumber or surrender, as the case may be, once each calendar quarter, assets, less applicable fees and penalties, held by such institution in an account of any noncustodial parent who is subject to a child support lien pursuant to § 2215 of this title.

(b) The Division of Child Support Services shall pay a reasonable fee to a financial institution for conducting the data match provided for in this subsection, not to exceed the actual costs incurred by such financial institution.

(c) In cases where there is a support arrearage and the noncustodial parent is subject to a child support lien pursuant to § 2215 of this title, the Division of Child Support Services may, without the necessity of obtaining an order from any other judicial or administrative tribunal, secure assets in such noncustodial parent's account, less applicable fees and penalties, to satisfy the arrearage by attaching and seizing such assets of the obligor held in financial institutions. The Division shall recognize and enforce the authority of state agencies of other states whereby the Division will enforce the child support liens on behalf of such state agencies in accordance with the procedures set forth in this section.

(d) If the Division obtains a financial record of an individual from a financial institution pursuant to subsection (a) of this section, the Division may disclose such financial record only for purposes of, and to the extent necessary in, establishing, modifying or enforcing a child support obligation of such individual.

(e) For purposes of this section, "financial institution" has the meaning given such term by 42 U.S.C. § 669a(d)(1). The term "account" means a demand deposit account, checking or NOW account, savings account, time deposit account, money-market mutual fund account, or voluntary public and private retirement fund account.

(f) Each financial institution doing business within this State shall enter into an agreement with the Division of Child Support Services to develop and operate, in coordination with the Division, the financial institution data match system described in this section. Those institutions which are not automated or compatible must identify themselves to the Division of Child Support Services within 180 days of passage of the legislation. The Division will work with these institutions to develop a data exchange process that is not unduly burdensome to the institution or the Division.

(g) A financial institution shall not be liable under any state law to any person or government agency for:

(1) Any disclosure of information to the Division of Child Support Services under this section; or

(2) Encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the Division of Child Support Services as provided in this title; or

(3) Any other action or omission taken in good faith to comply substantially with the requirements of this section.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17; 80 Del. Laws, c. 362, § 1.)

§ 2213. Parent locator information from interstate networks.

(a) The Division of Child Support Services (the "Division") shall have access to locator information contained in data systems used by the State for purposes which include, but are not limited to, motor vehicle and law enforcement.

(b) Upon request, the Division shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.). The Division may respond to a request for information, made under this section by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape or other electronic means.

(c) Locator information obtained by the Division, as provided in subsection (a) of this section, shall be used only for the purposes of, and to the extent necessary for, the administration of activities authorized by Part D of Title IV of the Social Security Act (42 U.S.C. § 651 et seq.). No entity or individual who complies with the provisions of this section shall be liable in any civil or criminal action or proceeding brought by a putative father, an obligor or an obligee on account of such compliance.

(d) The Director of the Division shall be responsible for the preparation of policy, procedures and directives as may be required to implement this section.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2214. Collection and use of Social Security numbers [Effective until Dec. 6, 2026].

(a) The Division of Child Support Services shall have access to the Social Security number of:

(1) Any applicant for a license as that has been defined in this section;

(2) Any applicant for a marriage license;

(3) Any individual who is subject to a divorce decree, support order or judgment, paternity order, or an acknowledgment of paternity filed in this State pursuant to § 8-302 of Title 13 or §§ 3105 and 3121 of Title 16;

(4) Any individual who has died; and

(5) Any individual who is a petitioner or respondent in a paternity or child support proceeding filed in this State or in an interstate action in which this State serves as the initiating or responding jurisdiction.

(b) Social security numbers collected pursuant to subsection (a) of this section shall be maintained in the records of the collecting agency. In the case of individuals who have died, the Social Security number also shall appear on the face of the death certificate.

(c) As used in this section, the term "license" means a commercial driver's license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, a hunting, fishing and trapping license issued or renewed under Chapter 5 of Title 7, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8735 of Title 29 (but not including any license issued on behalf of a nonprofit applicant by the Board of Charitable Gaming as set forth in Chapter 15 of Title 28).

(d) Upon request, the Division of Child Support Services shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.). The Division may respond to a request for information made under this section by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape or other electronic means.

(e) If a tribunal or agency also uses an identifying number other than the Social Security number, the tribunal or agency must so advise parties or applicants.

(f) The Director of the Division of Child Support Services shall be responsible for the preparation of policy, procedures, and directives as may be required to implement this section.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 6, § 1; 78 Del. Laws, c. 102, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2214. Collection and use of Social Security numbers [Effective Dec. 6, 2026].

(a) The Division of Child Support Services shall have access to the Social Security number of:

(1) Any applicant for a license as that has been defined in this section;

(2) Any applicant for a marriage license;

(3) Any individual who is subject to a divorce decree, support order or judgment, parentage order, an acknowledgment of parentage filed in this State under § 8-302 of Title 13 or §§ 3105 and 3121 of Title 16;

(4) Any individual who has died; and

(5) Any individual who is a petitioner or respondent in a paternity or child support proceeding filed in this State or in an interstate action in which this State serves as the initiating or responding jurisdiction.

(b) Social security numbers collected pursuant to subsection (a) of this section shall be maintained in the records of the collecting agency. In the case of individuals who have died, the Social Security number also shall appear on the face of the death certificate.

(c) As used in this section, the term "license" means a commercial driver's license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, a hunting, fishing and trapping license issued or renewed under Chapter 5 of Title 7, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8735 of Title 29 (but not including any license issued on behalf of a nonprofit applicant by the Board of Charitable Gaming as set forth in Chapter 15 of Title 28).

(d) Upon request, the Division of Child Support Services shall make available locator information, as provided in subsection (a) of this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.). The Division may respond to a request for information made under this section by any appropriate method including, but not limited to, paper, facsimile, telephone, magnetic tape or other electronic means.

(e) If a tribunal or agency also uses an identifying number other than the Social Security number, the tribunal or agency must so advise parties or applicants.

(f) The Director of the Division of Child Support Services shall be responsible for the preparation of policy, procedures, and directives as may be required to implement this section.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 6, § 1; 78 Del. Laws, c. 102, § 1; 80 Del. Laws, c. 234, § 17; 85 Del. Laws, c. 276, § 121.)

§ 2215. Child support liens.

(a) A child support installment or payment that is past due is, as of the date on which it was due, a lien in favor of the obligee in an amount sufficient to satisfy the arrearage, whether the amount due is a fixed sum or is accruing periodically. A child support lien under this subsection arises by operation of law, without the necessity of obtaining a judicial determination of the arrearage or an order creating the lien, and such lien incorporates any unpaid child support that accrues while the lien is in effect.

(b) From the time it is perfected as provided in this section, the child support lien arising under subsection (a) of this section shall bind all real and personal property, and any interest in property, whether legal or equitable, of the obligor. An interest in property acquired by the obligor after the child support lien arises shall be subject to such lien, subject to the limitations described in subsection (*l*) of this section.

(c) A child support lien may be enforced as provided in this chapter or as otherwise provided by law.

(d) The remedies provided by this chapter do not affect the availability of other remedies provided by law to enforce liens and judgments.

(e) A child support lien of another state must be recognized and given full faith and credit by a tribunal in this State, without the necessity of a prior judicial notice or hearing.

(f) The IV-D agency, party or entity requesting enforcement in Delaware of a child support lien arising in another state shall certify that the obligor is delinquent under a support order. In order to perfect the child support lien against real and personal property in this State, the IV-D agency, party or entity seeking enforcement must comply with the notice requirements of this section.

(g) If an obligor has been ordered by the Court to pay child support and owes arrears or retroactive support in a case enforced by the Division of Child Support Services under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the Director of the Division of Child Support Services may do 1 or more of the following:

(1) Cause a lien for arrears or retroactive support to be placed upon the obligor's distributive share of a decedent's estate by filing notice of a child support lien with the Register of Wills of the county in which the decedent's estate is being administered and by sending a written copy of the notice to the obligor and to the personal representative of the decedent. The lien attaches to the obligor's distributive share upon the filing of the notice of the lien with the Register of Wills. Thereafter, the personal representative of the decedent shall pay to the Director the lesser of the obligor's distributive share or the amount of arrears or retroactive support. If the personal representative fails to pay the Director in accordance with the lien, the personal representative is liable on the personal representative's bond to the Director, as the payee of the child support obligation.

(2) a. Cause a lien for arrears or retroactive support to be placed upon any claim, counterclaim, cross-claim, action or suit, at law or in equity, of the obligor by filing notice of a child support lien with the Prothonotary or clerk of the court in which the claim, counterclaim, cross-claim, or other action or suit is pending and by sending a copy of the notice to the obligor. Upon the filing of the notice, the Prothonotary or clerk of the court shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, if known, each of whom is deemed to have received the notice 5 days after the Prothonotary or clerk mailed the notice.

b. Any person, firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, cross-claim, or other action or suit after the receipt of the notice of lien is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support. The Director may enforce the child support lien in an action in the Family Court against any person, firm, or corporation, including an insurance carrier, making the payment or settlement.

(3) Cause a lien for arrears or retroactive support to be placed upon any demand or cause of action for negligence or personal injury of the obligor by sending written notice of a child support lien to the obligor, to the party or parties alleged to be liable to the obligor, if known, and to their attorneys of record, if known. The notice must also instruct the party to whom it is directed to deliver a copy of the notice to the party's insurance carrier, if any. The lien described in this paragraph (g)(3) attaches to any payment or settlement, after deducting expenses of recovery and attorneys' fees, made more than 5 days after the notice is mailed. Any person, firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, cross-claim, or other action or suit after the receipt of the notice of lien is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support. The Director may enforce the child support lien in an action in the Family Court against any person, firm, or corporation, including an insurance carrier, making the payment or settlement.

(4) Cause a lien for arrears or retroactive support or an income withholding order to be placed upon any workers' compensation benefits payable to the obligor by filing notice of a child support lien with the Secretary of the Industrial Accident Board and by sending a written copy of the notice to the obligor. Upon the filing of the notice, the Secretary of the Industrial Accident Board shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, each of whom is deemed to have received the notice 5 days after the date of mailing by the Secretary. The lien described in this paragraph (g)(4) attaches to any Industrial Accident Board award or any payment or settlement, after deducting expenses or recovery and attorneys' fees, made more than 5 days after the Secretary of the Industrial Accident Board mailed the notice. The lien described in this paragraph (g)(4) does not take priority over liens created by § 2363 of Title 19. Any person, firm, or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, cross-claim, or other action or suit after the receipt of the notice of lien is liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support. The Director may enforce the child support lien in an action in the Family Court against any person, firm, or corporation, including an insurance carrier, making the payment or settlement. This paragraph (g)(4) does not apply to periodic workers' compensation payments from which child support is paid by income attachment under § 513(b) of this title.

(5) Notwithstanding the provision of §§ 4733 and 4735 of Title 10 to the contrary, cause a lien for arrears or retroactive support to be perfected against real property by filing a child support lien notice with the Prothonotary in the county where the lien is sought to be filed. Upon the filing of the child support lien notice, the Prothonotary shall date and index the child support lien as a judgment and

mail the obligor a copy of the notice by certified or registered mail. The filing of the child support lien notice constitutes notice to all persons who are charged with notice of matters filed with the Prothonotary.

(6) Cause a lien for arrears or retroactive support to be perfected against accounts held by a financial institution by serving a notice of child support lien and notice of levy on said institution. Within 20 days after the date it receives the notice, the institution shall satisfy the lien by paying the amount of the lien to the Director of the Division of Child Support Services, as payee of the child support order, with any goods, chattels, rights, credits, money, or effects of the obligor in the institution's custody, possession, or control.

(7) Cause a lien for arrears or retroactive support to be perfected against designated nonexempt personal property of the obligor by filing a child support lien notice with the Prothonotary. The child support lien notice must describe the designated personal property against which it is perfected. Personal property subject to the child support lien includes lump sum payments from a state or local agency, including unemployment compensation and other benefits, and public and private retirement funds, subject to § 514 of the Retirement Income Security Act of 1974 [29 U.S.C. § 1144].

(h) For the purposes of this section, a child support lien notice must contain all of the following:

(1) The docket number or case number and identity of the court or administrative agency that entered the child support order.

(2) The name, address and, if known, the social security number of the obligor.

(3) The name and address of the obligee, unless protected from disclosure by a court or administrative order or finding.

(4) The amount of arrears or retroactive support as of a specified date.

(5) The name, address, and phone number of the public entity or individual to contact for the obligor's current payment record and past-due arrearage.

(6) The name and address of the person or agency to whom the payment of arrears and retroactive support must be made.

(i) The Division of Child Support Services shall send timely written notice to the obligor of action taken to perfect a child support lien, execute a levy, or seize the property. The notice shall specify the amount due, the steps to be followed to release the property so placed under lien, levied upon or seized and the time period within which to respond to such notice, and shall include the name of the court or administrative agency which entered the child support order.

(1) The obligor may request an administrative review by filing a written request with the Division of Child Support Services within 20 days from the date the notice of child support lien was mailed. If the obligor files a timely written request for an administrative review, the Division shall conduct the review within a reasonable time of such request and shall not dispose of the subject property before the review is complete. The only issues to be addressed at the review hearing are whether the obligor is the person named in the child support order from which the lien arises and whether any child support payment or installment is past due. The records of the Division of Child Support Services shall be presumptive of the amount in arrears and of the obligor's payment history. Except as otherwise provided herein, all hearings under this section shall be in accordance with the provision of the Administrative Procedures Act, Chapter 101 of Title 29.

(2) The obligor may appeal a decision entered after an administrative hearing under this section to the Family Court. The appeal shall be filed within 30 days of the day the notice of decision was mailed. The appeal shall a de novo review by to the Family Court and shall be as provided in §§ 10102(4) and 10142 through 10145 of Title 29.

(j) The records of the Division of Child Support Services, including records transmitted electronically, are presumptive evidence of the amount of any lien for arrears or retroactive support. Any person, firm, or corporation, including an insurance carrier or a financial institution, who has received notice of any child support lien shall determine from the Division of Child Support Services the amount of unpaid arrears or retroactive support owed by the obligor as of the date such party makes any payment to which a lien under this section attaches.

(k) The Division of Child Support Services may file notice of a lien or release of a lien or may transmit accounting information regarding an obligor's arrears and retroactive support by any means, including electronic means.

(*l*) Except as provided in paragraph (*l*)(2) of this section, a child support lien expires upon the termination of a current child support obligation and payment in full of any arrears and retroactive support, or upon release of the lien by the Division of Child Support Services in the case of an order being enforced under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), or by the obligee in a non-IV-D case.

(1) When all arrears and retroactive child support have been paid in full, the Division of Child Support Services, or the obligee in a non-IV-D case, shall enter satisfaction of such lien or judgment on the record in the office where the same is entered.

(2) The duration of a child support lien is 10 years from the date on which the notice of lien is properly served on the holder of property; provided, however, that such lien may be renewed for another 10 years by complying with § 4711 of Title 10. Expiration of the child support lien does not terminate the underlying child support order or judgment or liquidate any past due support or retroactive support.

(m) In any case where there has been a refusal or neglect to pay child support, regardless of whether a levy has been made, the Division of Child Support Services, in addition to any other remedies, may file a civil action to enforce the child support lien. The filing of a civil action shall not preclude the Division of Child Support Services from enforcing the child support order through the use of any administrative procedures permitted by federal or state law.

(n) The remedies provided in this section are in addition to any other remedies for the enforcement of a support order.

(o) In the case of a motor vehicle, a child support lien does not attach until the lien is noted on the certificate of title for such vehicle.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17; 82 Del. Laws, c. 41, § 1.)

§ 2215A. Child support liens; data match.

(a) For purposes of this section:

(1) "Data collection organization" means an insurance claim data collection organization or data match program that cooperates and coordinates with the Division of Child Support Services.

(2) "Director" means the Director of the Division.

(3) "Division" means the Division of Child Support Services.

(b) (1) Upon notice of a claim based upon negligence, personal injury, or workers' compensation, an insurer authorized to transact business under Title 18 shall submit required claim data maintained by the insurer or other paying agent directly to a data collection organization.

(2) An insurer shall submit the claim data required under this section no less than monthly.

(3) The claim data required under this section must include the claimant's name and address and if known, the claimant's date of birth and social security number or other taxpayer identification number.

(c) A data collection organization must conduct a data match of all claimants provided under subsection (b) of this section and the data file provided by the Division and report any matches to the Division.

(d) If an insurer does not provide claim data under subsection (b) of this section, the insurer is liable to the Director for the amount that would have been due if the claim data had been reported and the lien issued and perfected.

(e) An insurer, other paying agent, or data collection organization is not liable for any of the following:

(1) Disclosing information under this section.

(2) Encumbering or surrendering assets under this section.

(3) Actions taken in good faith to comply substantially with the requirements of this section.

(82 Del. Laws, c. 41, § 2.)

§ 2216. Driver's, professional, occupational and business and recreational licenses.

(a) As used in this section and in § 516(g) of this title, the term "license" means a commercial driver license or license to operate a motor vehicle issued or renewed under Chapter 26 or 27 of Title 21, a hunting, fishing or trapping license issued or renewed under Chapter 5 of Title 7, and a license, permit, certificate, approval, registration or other similar form of permission or authorization to practice or engage in any profession, occupation or business, issued or renewed by the Division of Revenue under Chapter 23, 25, 27 or 29 of Title 30, or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8735 of Title 29 (but not including any license issued on behalf of a nonprofit applicant by the Board of Charitable Gaming as set forth in Chapter 15 of Title 28).

(b) In order to provide for the denial or suspension of licenses to delinquent child support obligors, the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation shall each enter into a cooperative agreement with the Director of the Division of Child Support Services to make available or otherwise provide to the Director of the Division of Child Support Services information regarding any person who applies for or holds a license issued or renewed by their respective divisions. The specific information and the manner and frequency with which it is made available or otherwise provided to the Division of Child Support Services shall be as determined by each cooperative agreement, but such information shall be made available or otherwise provided at least once each calendar year. Each cooperative agreement shall be revised as necessary to effectuate the provisions and purposes of this section. From such information provided by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife and the Division of Professional Regulation, the Division of Child Support Services, at such intervals as it determines, may identify such applicants or licensees who are delinquent child support obligors as described in this section, and undertake enforcement action pursuant to this section.

(c) Subject to the notice and hearing provisions of this section, the Director of the Division of Child Support Services may give notice that a license shall not be issued or renewed by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8735 of Title 29 if:

(1) The applicant is the subject of an outstanding capias or bench warrant issued by the Family Court for failure to appear at any paternity or child support proceeding in a case enforced by the Division of Child Support Services pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.); or

(2) The applicant is under an order of the Family Court to pay child support in a case enforced by the Division of Child Support Services pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), owes $1,000 or more in arrears or retroactive support, and is 30 or more days delinquent in payment of the support order.

(d) Subject to the notice and hearing provisions of this section, the Director of the Division of Child Support Services may give notice that a license issued by the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or by any commission, board or agency under the authority of the Division of Professional Regulation which is named in § 8735 of Title 29 shall be suspended if:

(1) The licensee is the subject of an outstanding capias or bench warrant issued by the Family Court for failure to appear at any paternity or child support proceeding in a case enforced by the Division of Child Support Services pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.); or

(2) The licensee is under an order of the Family Court to pay child support in a case enforced by the Division of Child Support Services pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), owes $1,000 or more in arrears or retroactive support, and is 30 or more days delinquent in payment of the support order.

(e) The Director of the Division of Child Support Services shall give written notice of the proposed denial or suspension of a license to the obligor, together with the amount of arrears or retroactive support and the date of the last payment on the child support order. The denial or suspension of the license becomes effective upon final written notice to the obligor from the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation unless, within 20 days of the date the notice of proposed denial or suspension is mailed by the Director of the Division of Child Support Services, the obligor:

(1) Requests in writing an administrative hearing before the Director of the Division of Child Support Services or the Director's designee;

(2) Pays the arrears or retroactive support in full;

(3) Surrenders to the Family Court on any outstanding capias or bench warrant and pays any arrears or retroactive support in full; or

(4) Consents to a payment plan acceptable to the Director of the Division of Child Support Services or the Director's designee, and fully complies therewith.

(f) The Director of the Division of Child Support Services or the Director's designee shall convene a hearing within 30 days after receipt of the obligor's timely written request, and shall issue a written decision within 5 working days after the hearing. The only issues to be addressed at the hearing are whether the applicant or licensee is the obligor named in the child support order; whether the obligor owes $1,000 or more in arrears or retroactive support; and whether the obligor is 30 or more days delinquent in payment of the child support order. No evidence of the appropriateness of the child support order or of the obligor's ability to comply shall be received or considered at the hearing. The records of the Division of Child Support Services shall be presumptive of the amount of arrears or retroactive child support and of the obligor's payment history.

(g) If the obligor fails to timely request a hearing or to otherwise timely comply with the requirements of subsection (e) of this section to avoid denial or suspension of the license, upon the issuance of a written decision adverse to the obligor after a hearing, or upon order of the Family Court pursuant to § 516(g) of this title, the Director of the Division of Child Support Services may notify the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation that the provisions of this section for denial or suspension of the obligor's license have been met. Such notification may be made electronically, by computer or by such other means as the Director of the Division of Child Support Services and the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation may agree, and such notification shall constitute sufficient authority for the denial or suspension of any license. The Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation shall forthwith deny the issuance or renewal of any license, or suspend the same, and so notify the applicant or licensee in writing. The notice from the Director of the Division of Child Support Services shall be conclusive, and the action of the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation in compliance therewith shall be effective 4 days after the date notice of same is mailed to the obligor at the address on record at the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or the Division of Professional Regulation. The obligor shall remain ineligible for the issuance, renewal or reinstatement of any license until the obligor obtains from the Director of the Division of Child Support Services or the Director's designee written certification that the grounds for denial or suspension of a license under this section no longer exist or by order of the Family Court pursuant to § 516(h) of this title.

(h) Except as otherwise provided herein, all hearings and proceedings under this section shall be in accordance with the provisions of the Administrative Procedures Act, Chapter 101 of Title 29.

(i) The obligor may appeal a decision entered after a hearing under this section to the Family Court. The appeal shall be filed within 30 days of the day the notice of decision is mailed by the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife or the Director of the Division of Professional Regulation. The appeal shall be on the record to the Family Court and shall be as provided in §§ 10102(4) and 10142 through 10145 of Title 29.

(j) The process described in this section shall constitute the sole remedy for contesting the denial or suspension of a license based on the grounds in this section.

(k) The remedies provided in this section shall be in addition to any other remedies for the enforcement of a support order.

(*l*) Nothing in this section shall be construed as limiting the Family Court's authority to order the denial or suspension of any license as provided in § 516(g) of this title. Failure of the Family Court to order denial or suspension of a license under § 516(g) of this title shall not in any way limit or affect the authority to deny or suspend a license as provided in this section except as provided in § 516(h) of this title.

(m) The Director of the Division of Child Support Services may enter into such agreements with the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife, the Director of the Division of Professional Regulation and such other agencies as may be appropriate to effectuate the purposes of this section.

(70 Del. Laws, c. 452, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 216, §§ 60-74; 75 Del. Laws, c. 207, §§ 2, 3, 4; 78 Del. Laws, c. 102, § 1; 80 Del. Laws, c. 234, § 17; 84 Del. Laws, c. 42, § 1.)

§ 2217. Credit bureau reporting.

Information regarding the amount of arrearages owed by an obligor shall be reported by the Division of Child Support Services, at such intervals as it determines, to consumer reporting agencies, as that term is defined in 15 U.S.C. § 1681a(f), or be made available by the Division of Child Support Services to any consumer reporting agency upon request, subject to the following:

(1) The amount of arrearages are not less than $500.

(2) The information shall be made available only after the obligor owing the arrearages has been notified of the proposed action and given a period of 20 days to contest the accuracy of the information.

(3) A fee for furnishing the information in an amount not exceeding the actual cost thereof may be imposed on the requesting consumer reporting agency by the Division of Child Support Services.

(71 Del. Laws, c. 216, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2218. Requests for information.

(a) Upon receipt of a written request or a request by electronic means, where available, from the Director of the Division of Child Support Services in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), any employer, as that term is defined in § 513(b)(6) of this title, and any labor organization, as that term is defined in § 710 of Title 19, shall cooperate with and provide relevant employment and income information in the possession of such employer or labor organization to the Director or the Director's designee for the purpose of establishing paternity or establishing, modifying or enforcing a child support order. Relevant employment and income information includes: the address of the employer; whether the named person is a current or past employee or contractor of the employer, or whether the named person has or has not been employed or hired as a contractor to the knowledge of the labor organization; the full name of the employee, contractor or member; the last known residential address of the employee, contractor or member; the date of birth of the employee, contractor or member; the Social Security number of the employee, contractor or member; all income, as that term is defined in § 513(b)(5) of this title, paid to the employee, contractor or member in the prior and current calendar year and the current rate of pay and benefits provided to the employee, member or contractor; and whether dependent health insurance coverage is available to the employee or member through employment or membership in the labor organization, together with information about the name of the health-care insurer and the extent of the coverage available.

(b) An employer or labor organization shall be immune from any liability for providing information pursuant to this subsection.

(c) Any employer or labor organization that fails or refuses to provide the information described in this section within 15 days after receipt of a request from the Director of the Division of Child Support Services or as otherwise provided in such request shall be punished by a fine of not less than $100 nor more than $500. For a second or subsequent offense, such employer or labor organization shall be fined not less than $500 nor more than $1,000. A fine under this section may not be suspended. If the employer or labor organization is a corporation, criminal liability shall be established pursuant to §§ 281-284 of Title 11.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 234, § 17.)

§ 2219. Obligation of parties to provide information.

Each party shall receive written notice, which may be contained in the support judgment or order, that the party is required to keep the court informed of such party's current residential address, drivers license number, telephone number, employer, employer address and employer telephone number.

(71 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

§ 2220. Definitions.

Unless a different meaning is plainly required by the context, words and phrases used in this chapter shall have the same meaning as those defined in § 401(b) of this title.

(71 Del. Laws, c. 216, § 1.)

Chapter 23
Guardianship of a Child

Subchapter I
Definitions and Jurisdiction

§ 2301. Intent and purpose.

The General Assembly hereby declares that although the Family Court has jurisdiction to grant guardianship, there does not presently exist any statutory framework for our families, our children and our Family Court judiciary as to the proper procedures and requirements for guardianship in the Family Court.

(73 Del. Laws, c. 150, § 1.)

§ 2302. Definitions.

For the purposes of this chapter, unless the context indicates differently:

(1) "Abuse" or "abused child" is as defined in § 901 of Title 10.

(2) "Adult" means a person who has reached an 18th birthday.

(3) "Best interests" is as defined in § 722 of this title.

(4) "Child" or "children" means persons who have not reached their 18th birthday.

(5) "Court" means the Family Court.

(6) "Department" or "DSCYF" means the Department of Services for Children, Youth and Their Families.

(7) "Dependency" or "dependent child" is as defined in § 901 of Title 10.

(8) "Division" means the Division of Family Services of the Department of Services for Children, Youth and Their Families.

(9) "Foster parent" means an individual or couple who has been approved by DSCYF or a licensed agency to provide foster care in exchange for foster care payments provided by DSCYF or a licensed agency.

(10) "Guardian" means a nonparent or an agency charged with caring for a child during the child's minority.

(11) "Guardian ad litem" means an individual appointed by the Court to represent the best interests of a child, whether or not that reflects the wishes of the child, who by that individual's appointment shall be a party to the child welfare proceeding.

(12) "Neglect" or "neglected child" is as defined in § 901 of Title 10.

(13) "Parent" is as defined by § 8-201 of this title.

(14) "Parental responsibilities" means the care, support and control of the child in a manner that provides for the child's necessary physical needs, including adequate food, clothing and shelter, and that also provides for the mental and emotional health and development of such child.

(15) "Permanency" means the safe, stable, custodial environment in which a child is raised and the life-long relationship that child establishes with a nurturing caregiver.

(16) "Relative" means any sibling, grandparent, uncle, aunt, first cousin, first cousin once removed, great-grandparent, grandaunt or granduncle, half sibling, stepparent, stepsibling, stepaunt or stepuncle, or stepgrandparent of the child who is the subject of a guardianship petition.

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 136, §§ 9-12; 77 Del. Laws, c. 97, § 4; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 128, § 1.)

§ 2303. Jurisdiction and venue.

(a) The Family Court shall have jurisdiction of proceedings under this chapter to grant, modify and/or terminate guardianship.

(b) A petition for guardianship under this chapter may be filed in the Family Court of any of the following counties:

(1) The county in which at least 1 parent resides;

(2) The county in which the organization having legal or physical care, custody or control of the child is located; or

(3) The county in which the child is located.

(73 Del. Laws, c. 150, § 1.)

Subchapter II
General Procedures for Appointment of Guardians

§ 2320. Persons eligible to petition for guardianship.

Unless otherwise specified in this chapter, any adult person or persons may petition the Family Court for a guardianship order regarding a child who is not the adult person's or persons' child. Unless otherwise specified in this chapter, DSCYF, the Division, a licensed agency,

the child's attorney, the guardian ad litem or a hospital that has an interest in the health, education or welfare of a child or children may petition the Family Court for a guardianship order so long as the proposed guardian or guardians consent to the appointment.

(73 Del. Laws, c. 150, § 1; 70 Del Laws, c. 186, § 1; 73 Del. Laws, c. 360, § 1; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 128, § 2.)

§ 2321. Consent by parent.

Unless otherwise provided by this chapter, the parent or parents may voluntarily consent to the guardianship. Notwithstanding such consent, a reason for establishing the guardianship shall be provided.

(73 Del. Laws, c. 150, § 1; 84 Del. Laws, c. 128, § 3.)

§ 2322. Contents of petition.

Every petition for guardianship of a child filed under this chapter shall contain:

(1) Name and place of residence of the petitioner or petitioners;

(2) Name, sex, date of birth and place of birth of the child;

(3) Relationship of the petitioner or petitioners to the child or the fact that no such relationship exists;

(4) The name and address of the mother and the name and address of the father, alleged father or presumed father;

(5) In addition to other pertinent information, the petition, if either the name or address of the parent or parents is not included, shall furnish detailed information concerning the efforts made to locate the parent or parents;

(6) The name and last known address of the person or persons or organization holding parental rights and the name and address of the person or persons or organization having the care, control or custody of the child;

(7) The name or names and residence of the person or persons to whom guardianship shall vest, if different from the petitioner or petitioners;

(8) If the child is 14 years of age or older, an affidavit that the child consents to the guardianship or, if the child does not consent, just cause why the guardian should be appointed;

(9) A statement regarding each parent that:

a. The child is dependent, neglected or abused, and the reasons therefore; or

b. The proposed guardian is a stepparent and meets the requirements of § 733 of this title; or

c. The parent consents to the guardianship. Notwithstanding the parent's consent, the petitioner must state the reason for establishing the guardianship. An affidavit shall also be filed indicating that the parent consents to the guardianship and whether the parent consents to the reason for establishing the guardianship as stated by the petitioner. The affidavit shall also include a statement that the parent understands the impact that consenting to the reason has on future rescission proceedings under § 2332 of this title;

(10) Certified copies of the death certificate or such other proof as the Court may require, if 1 or more parents is deceased; and

(11) A statement setting forth the reasons why the petition is in the child's best interest.

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 360, §§ 2, 3; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 4.)

§ 2323. Religious affiliation [Repealed].

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; repealed by 79 Del. Laws, c. 246, § 1, eff. June 10, 2014.)

§ 2324. Social study and report.

(a) The Court, in its discretion, may order a social study and report (hereinafter "social report") for any petition filed under this chapter. The social report, if ordered, shall be prepared by a "licensed agency," as defined in § 1101 of this title, retained by petitioner.

(b) The social report shall include:

(1) Information regarding the child and that child's background;

(2) Information regarding the guardian or guardians and the proposed home;

(3) Information regarding the physical and mental condition of the child;

(4) Information regarding the suitability of the placement;

(5) A statement as to whether all requirements of this chapter have been met; and

(6) A recommendation.

(c) If a social report is ordered under this section, the person or persons or organization so ordered shall file the social report within 4 months, subject to such additional time as the Court shall determine is reasonably required.

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 128, § 5.)

§ 2324A. Assessment.

(a) DSCYF or a "licensed agency," as defined in § 1101 of this title, shall conduct an assessment of any person who is the proposed guardian and who is not a "relative," as defined in § 2302 of this title.

(b) Notwithstanding subsection (a) of this section, the Court has jurisdiction to hear and rule on any petition for guardianship, including granting of emergency relief, and to determine placement for a child in DSCYF custody under § 2521(1) of this title.

(84 Del. Laws, c. 128, § 6.)

§ 2325. Hearing procedure and notice requirements.

(a) When a guardianship petition is filed, the petition shall be served upon the parent or parents, person or persons or organization holding parental rights at the respondent's last known address.

(b) If the Court finds that personal service within the State cannot be accomplished upon the parent or parents, person or persons, or organization holding parental rights, the petitioner shall cause notice to be published either on a legal notices website established by the Court or in a newspaper of general circulation in the county where the respondent is most likely to be residing.

(c) Personal service at any time prior to the hearing shall be sufficient to give jurisdiction.

(d) Notice provided pursuant to this section shall constitute conclusive evidence of service and a hearing will then proceed at the time and date set, with or without the appearance of the parent or parents, person or persons, or organization so notified.

(73 Del. Laws, c. 150, § 1; 76 Del. Laws, c. 95, §§ 1-3; 79 Del. Laws, c. 246, § 1; 83 Del. Laws, c. 96, § 5.)

§ 2326. Decision within 45 days.

The Court shall issue a decision and order on a petition for guardianship under this chapter within 45 days following the conclusion of the proceedings, or if no hearing is necessary, within 45 days of the petition and social report, if applicable, being filed.

(73 Del. Laws, c. 150, § 1; 84 Del. Laws, c. 128, § 7.)

§ 2327. Confidentiality of proceedings.

All proceedings under this chapter shall be held before the Court privately, but for reasons appearing sufficient to the Court, the hearing may be public.

(73 Del. Laws, c. 150, § 1; 84 Del. Laws, c. 128, § 8.)

§ 2328. Appeals.

The petitioner, if the petition is not granted, or any person or organization who does not prevail in a petition for guardianship under this chapter, may, within 30 days after the entry of an order by the Court, take an appeal therefrom to the Supreme Court.

(73 Del. Laws, c. 150, § 1; 84 Del. Laws, c. 128, § 9.)

Subchapter III

Guardian of the Child

§ 2330. Grounds for guardianship of the child.

(a) Before granting an order for guardianship under this chapter, when parental rights are vested in 1 or more parents, the Court shall find for each parent holding parental rights 1 of the following:

(1) The parent voluntarily consents to the guardianship.

a. Notwithstanding the consent, if the child is in DSCYF custody, the Court shall determine whether guardianship is the appropriate permanency plan for the child and whether it is in the best interest of the child for the guardianship to be granted.

b. The Court shall also determine the reason for establishing the guardianship.

(2) After a hearing on the merits, by a preponderance of the evidence that petitioner has established:

a. The child is dependent, neglected or abused and the reasons therefor; and

b. It is in the best interests of the child for the guardianship to be granted.

(b) When parental rights have been terminated and those rights are vested in DSCYF or a "licensed agency," as defined in § 1101 of this title, the Court shall grant an order for guardianship upon finding both of the following:

(1) Guardianship is the appropriate permanency plan for the child.

(2) It is in the best interests of the child for the guardianship to be granted.

(c) When more than 1 petition for guardianship regarding the same child or children has been filed, and the elements of either subsection (a) or (b) of this section are met, the Court shall determine which petition, if any, to grant based upon the best interests of the child.

(d) When a guardianship petition is filed against a guardian, and the elements of either subsection (a) or (b) of this section are met, the Court shall determine whether the petition shall be granted based upon the best interests of the child.

(e) If the child is 14 years of age or older, the Court shall determine whether the child consents to the guardianship, and if the child opposes, whether just cause requires the guardianship be granted.

(f) If the Court determines the elements of subsection (a) or (b) of this section have been met, the Court shall issue an order stating the grounds and the reason for establishing the guardianship. The Court shall also determine by a preponderance of evidence the nature

and extent, if any, of contact, sharing of information, or visitation between the parent and the child. In making such a determination, the Court shall apply the best interests of the child standard.

(73 Del. Laws, c. 150, § 1; 73 Del. Laws, c. 360, §§ 2, 4; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 10.)

§ 2331. Duties and rights of parents.

(a) While a guardianship is in effect, the parent shall have the following rights:

(1) Visitation, contact and information, to the extent delineated in the guardianship order issued by the Court. A parent may petition the Court for specific enforcement of provisions of the order relating to contact, visitation or information; and

(2) Inheritance by and from the child.

(b) The parent shall have the primary responsibility to support the child financially.

(c) In the event the income and assets of the parent qualify the child for governmental benefits, the benefits may be conferred upon the child with payment to be made to the guardian. The provision of necessities by the guardian shall not disqualify the child for any benefit or entitlement.

(d) If the child has been in the custody of DSCYF immediately prior to the granting of a guardianship order, DSCYF shall have no further duty of support or care for the child after establishment of the guardianship unless DSCYF agrees in writing to that support.

(73 Del. Laws, c. 150, § 1; 79 Del. Laws, c. 246, § 1.)

§ 2332. Termination, modification or rescission of guardianship order.

(a) *Termination.* — Except as otherwise specified in this chapter, guardianship of a child terminates:

(1) Upon the guardian's death;

(2) Upon adoption of the child;

(3) When the child reaches the age of majority; or

(4) As otherwise ordered by the Court.

(b) *Modification.* — Except as otherwise specified in this chapter, an order of guardianship may be modified regarding contact, visitation or sharing of information at any time if it is in the best interests of the child.

(c) *Rescission.* — Except as otherwise specified in this chapter, an order of guardianship may be rescinded upon a judicial determination that petitioner has made a preliminary showing the guardianship is no longer necessary for the reason determined by consent or by a finding of the Court at the time the guardianship was established, unless:

(1) The Court finds the guardian has established, by a preponderance of the evidence, the child will be dependent, neglected, or abused in the care of the parent or parents seeking rescission; or

(2) The Court finds the guardian has established, by clear and convincing evidence, the child will suffer physical or emotional harm if the guardianship is terminated.

(73 Del. Laws, c. 150, § 1; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 11.)

§ 2333. Subsidies.

(a) DSCYF, in its discretion, may award subsidy moneys to guardians of the child where the Court finds:

(1) The grounds for guardianship have been met as set forth in this chapter; and

(2) The child was in the custody of DSCYF for a period of at least 1 year.

(b) The amount and duration of the subsidy shall be in the sole discretion of DSCYF.

(73 Del. Laws, c. 150, § 1; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 12.)

Subchapter IV

Powers and Duties of a Guardian

§ 2340. Powers and duties of the guardian of the child.

(a) The Court shall grant to the guardian of the child such powers, rights and duties which are necessary to protect, manage and care for the child.

(b) The guardian of the child may exercise the same powers, rights and duties respecting the care, maintenance and treatment of the child as a parent would, except that the guardian of the child is not liable to third persons for acts of the child solely by reason of the guardianship relationship.

(c) Except as modified by the order of guardianship and without qualifying the foregoing, a guardian of the person has the following powers and duties:

(1) The guardian is entitled to custody of the child and may establish the child's place of abode.

a. Notwithstanding the guardian's authority under this subsection, if there is a proposed relocation of a child for a period of 60 days or more involving either a move outside Delaware or a move that materially affects a parent's existing visitation arrangement or order, the guardian must obtain at least 1 of the following:

1. Leave of court.

2. The consent of the child's parents.

b. When considering a guardian's request to relocate a child, the Court shall apply the relocation factors under § 734 of this title.

(2) The guardian shall provide the child with:

a. A physically and emotionally healthy and safe living environment and daily care;

b. Education; and

c. All necessary and appropriate medical treatment, including but not limited to medical, dental and psychiatric examinations, treatment or surgery.

(3) The guardian shall make decisions regarding:

a. Education;

b. Travel;

c. All necessary and appropriate medical treatment, including but not limited to medical, dental and psychiatric examinations, treatment or surgery;

d. The child's right to marry or enlist in the armed forces;

e. Representation of the child in legal actions; and

f. Any other matter that involves the child's welfare and upbringing.

(4) The guardian shall:

a. Be responsible for the health, education and welfare of the child;

b. Comply will all terms of any Court order to provide the child's parents with visitation, contact or information.

(d) The Court, in its discretion, may expressly limit the duties and powers of the guardian as set forth in this chapter.

(e) No bond shall be required from any guardian appointed under this chapter.

(73 Del. Laws, c. 150, § 1; 73 Del. Laws, c. 360, § 5; 84 Del. Laws, c. 128, § 13.)

Subchapter V

Permanent Guardianships for Children

§ 2350. Intent.

Permanent guardianship models the requirements of "legal guardianship" under the Adoption and Safe Families Act of 1997, Public Law 105-89, § 101(b), 42 U.S.C., § 675(7). Permanent guardianship is intended to create a relationship between a child and caretaker which is permanent and self-sustaining, and which creates a permanent family for the child without complete severance of the biological bond.

(73 Del. Laws, c. 150, § 1.)

§ 2351. Eligibility to serve as permanent guardian; eligibility to petition for permanent guardianship.

A relative, foster parent, guardian, or an individual with whom a child in DSCYF custody is placed may serve as permanent guardian of a child and may petition the Family Court for a permanent guardianship order regarding a child. DSCYF, the child attorney, a licensed agency or guardian ad litem may petition the Family Court for a permanent guardianship order so long as the proposed permanent guardian consents to the appointment.

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 360, § 6; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 128, § 14.)

§ 2352. Contents of petition for permanent guardianship.

A petition for permanent guardianship shall contain all of the information required by § 2322 of this title, and all of the following information:

(1) The grounds for the granting of an order of permanent guardianship.

(2) A statement outlining prior efforts to place the child for adoption, if applicable.

(73 Del. Laws, c. 150, § 1; 84 Del. Laws, c. 128, § 15.)

§ 2353. Standard for permanent guardianship.

(a) The Court shall grant a permanent guardianship if it finds by clear and convincing evidence all of the following:

(1) One of the statutory grounds for termination of parental rights as set forth in § 1103(a) of this title has been met or the parent consents to permanent guardianship.

(2) Adoption of the child is not possible or appropriate.

(3) Permanent guardianship is in the best interests of the child.

(4) The proposed permanent guardian meets all of the following requirements:

a. Is emotionally, mentally, physically and financially suitable to become the permanent guardian.

b. Is an individual with whom a child in DSCYF custody is placed, a relative, a foster parent, or a guardian.

c. Has expressly committed to remain the permanent guardian and assume the rights and responsibilities for the child for the duration of the child's minority.

d. Has demonstrated an understanding of the financial implications of becoming a permanent guardian.

e. Has had the child placed with them for at least 6 months immediately preceding the filing of the petition. The Court may waive this requirement if the petitioner is a relative and the Court finds just cause.

(5) If the child is age 14 or over, the child consents to the permanent guardianship or, if the child does not consent, just cause why the permanent guardian should be appointed.

(6) If the proposed permanent guardian is not a relative or current guardian, at least 1 of the following:

a. The child is at least 12 years of age.

b. The proposed permanent guardian is the permanent guardian of 1 of the child's siblings.

c. The child receives substantial governmental benefits for a serious physical or mental disability which would no longer be available to the child if parental rights were terminated or the child was adopted.

d. Extraordinary circumstances that support granting the permanent guardianship exist.

(b) If the Court determines that the elements of subsection (a) of this section have been met, the Court shall then also determine by a preponderance of evidence, the nature and extent, if any, of any contact, sharing of information, or visitation between the parent and the child. In making such a determination, the Court shall apply the best interests of the child standard.

(c) [Repealed.]

(73 Del. Laws, c. 150, § 1; 73 Del. Laws, c. 360, § 2; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 16.)

§ 2354. Social report.

A social report covering the factors enumerated in § 2353 of this title shall be prepared by a licensed child-placing agency retained by the petitioner and provided to the Court no later than 1 week prior to trial.

(73 Del. Laws, c. 150, § 1.)

§ 2355. Permanent guardianship hearing procedures and notice requirements.

The provisions of § 1107 of this title shall apply to hearings on permanent guardianship petitions, with references to termination of parental rights being replaced by reference to permanent guardianship where appropriate.

(73 Del. Laws, c. 150, § 1.)

§ 2356. Order granting permanent guardianship.

(a) The Court shall issue an order regarding permanent guardianship within 45 days of 1 of the following:

(1) The final day of trial.

(2) The filing of the petition and social report in cases based upon the consent of all parties.

(b) If the Court grants permanent guardianship, it shall include in that order provisions regarding visitation by the child with the child's parents, contact by the child with the child's parents, and the sharing of information to be provided to the parents about the child, all based upon the child's best interests.

(c) The order granting permanent guardianship may prohibit visitation, contact or information if such prohibition is in the child's best interests.

(d) The order granting permanent guardianship may incorporate an agreement reached by the parties.

(73 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 128, § 17.)

§ 2357. Powers and duties of the permanent guardian.

A permanent guardian shall have the same powers and duties as set forth in § 2340 of this title.

(73 Del. Laws, c. 150, § 1.)

§ 2358. Duties and rights of parents.

(a) While a permanent guardianship is in effect, the parent shall have the following rights:

(1) Visitation, contact and information, to the extent delineated in the permanent guardianship order issued by the Court. A parent may petition the Court for specific enforcement of provisions of the order granting permanent guardianship relating to contact, visitation or information.

(2) Inheritance by and from the child.

(3) Right to consent to termination of parental rights or adoption of the child.

(b) The parent shall have the primary responsibility to support the child financially.

(c) In the event the income and assets of the parent qualify the child for governmental benefits, the benefits may be conferred upon the child with payment to be made to the permanent guardian. The provision of necessities by the permanent guardian shall not disqualify the child for any benefit or entitlement.

(d) If the child has been in the custody of DSCYF immediately prior to the entry of an order for a permanent guardianship, DSCYF shall have no further duty of support or care for the child after establishment of the permanent guardianship unless DSCYF agrees in writing to that support.

(73 Del. Laws, c. 150, § 1; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 18.)

§ 2359. Termination, modification or rescission of permanent guardianship order.

(a) *Termination.* — Except as otherwise specified in this chapter, permanent guardianship of a child terminates upon at least 1 of the following conditions:

(1) The permanent guardian's death.

(2) Adoption of the child.

(3) The child reaches the age of majority.

(4) The Court otherwise orders termination of the permanent guardianship.

(b) *Modification.* — Except as otherwise specified in this chapter, an order of permanent guardianship may be modified regarding contact, visitation or sharing of information only upon finding both of the following:

(1) There has been a substantial change in material circumstances.

(2) Modification is in the best interests of the child.

(c) *Rescission.* — (1) An order of permanent guardianship may be rescinded only upon finding both of the following:

a. There has been a substantial change in material circumstances.

b. Rescission is in the best interests of the child.

(2) A parent may not petition the Court to rescind a permanent guardianship once granted under this chapter.

(3) Where the permanent guardianship is rescinded by the Court, custody of the child shall not automatically revert to the parent. At any subsequent hearing, the parent shall be considered with no greater priority than any other person or agency, and in entering any further order regarding the child the Court shall apply the best interests of the child standard.

(4) If the permanent guardianship is rescinded, and DSCYF held custody immediately prior to the entry of the order, custody shall revert to DSCYF.

(d) Upon a showing by affidavit of immediate harm to a child, the Court may do any of the following temporarily:

(1) Stay a permanent guardianship order on an ex parte basis pending a hearing and grant temporary custody of the child to DSCYF or temporary guardianship to petitioner.

(2) Stay the visitation, contact or information provisions of a permanent guardianship order on an ex parte basis pending a hearing.

(73 Del. Laws, c. 150, § 1; 79 Del. Laws, c. 246, § 1; 84 Del. Laws, c. 128, § 19.)

Subchapter VI

Standby Guardianships

§ 2361. Legislative intent, findings and purpose.

The General Assembly hereby declares that there is a need to create an expeditious manner of establishing a guardianship known as standby guardianship, in order to enable a parent, custodian, or guardian suffering from a progressive chronic condition or a terminal illness to make plans for the permanent future care or the interim care of a child without terminating parental or legal rights.

(76 Del. Laws, c. 222, § 1.)

§ 2362. Definitions.

In addition to the definitions provided for in this chapter, as used in this subchapter:

(1) "Appointed standby guardian" means a person appointed pursuant to this subchapter to assume the powers and duties of guardianship of a child upon the death or determination of incapacity or debilitation of the parent, custodian, or guardian.

(2) “Attending physician” means the physician who has primary responsibility for the treatment and care of the parent, custodian or guardian. Where more than 1 physician shares such responsibility, or where a physician is acting on the attending physician’s behalf, any such physician may act as the attending physician. If no physician has responsibility for the care and treatment of the parent, custodian, or guardian, any physician who is familiar with the parent’s, custodian’s, or guardian’s medical condition may act as the attending physician.

(3) “Custodian” means a nonparent who has been awarded custody of a child by order of the Family Court, but excludes the Department of Services for Children, Youth and Their Families when it or any of its divisions have been awarded custody by order of the Family Court.

(4) “Debilitation” means a person’s chronic and substantial inability, as a result of a terminal illness, disease or injury, to care for a child. “Debilitated” means a person’s state of chronic and substantial inability, as a result of a terminal illness, disease or injury to care for a child.

(5) “Designated standby guardian” means a person designated pursuant to this subchapter to assume temporarily the duties of guardianship of a child upon the death or a determination of incapacity or debilitation of the parent, custodian or guardian.

(6) “Designator” means a parent, custodian or guardian who makes a designation of a standby guardian.

(7) “Determination of debilitation” means a written determination made by the attending physician which contains the physician’s opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent’s, custodian’s or guardian’s debilitation.

(8) “Determination of incapacity” means a written determination made by the attending physician which contains the physician’s opinion to a reasonable degree of medical certainty regarding the nature, cause, extent and probable duration of the parent’s, custodian’s or guardian’s incapacity.

(9) “Incapacity” means a person’s chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of the child, and a consequent inability to care for the child. “’Incapacitated” means a state of chronic and substantial inability, as a result of mental impairment, to understand the nature and consequences of decisions concerning the care of the child, and a consequent inability to care for the child.

(10) “Triggering event” means an event in the designation, petition or decree which empowers the standby guardian to assume the duties of the office, which event may be the death, incapacity, or debilitation of the parent, custodian, or guardian, whichever occurs first.

(76 Del. Laws, c. 222, § 1.)

§ 2363. Jurisdiction and venue.

(a) The Family Court shall have jurisdiction over proceedings under this chapter to grant, modify and/or terminate standby guardianship.

(b) A petition for standby guardianship under this chapter may be filed in the Family Court of any of the following counties:

(1) The county in which 1 natural parent resides;

(2) The county in which a legal guardian of the child resides; or

(3) The county in which 1 child resides.

(76 Del. Laws, c. 222, § 1.)

§ 2364. Hearing procedure and notice requirements.

The procedure and notice requirements set forth in § 2325 of this title shall apply. However, upon motion and good cause shown, the parent, custodian or guardian who has become incapacitated or debilitated need not personally appear for such noticed hearings.

(76 Del. Laws, c. 222, § 1.)

§ 2365. Persons eligible to petition for guardianship.

Any parent, custodian or guardian may petition the Family Court for a standby guardianship order regarding a child for whom they have been given legal responsibility.

(76 Del. Laws, c. 222, § 1.)

§ 2366. Contents of standby guardianship petition.

A petition for standby guardianship shall contain all of the information required by § 2322 of this title, as well as the following information:

(1) Name and address of the custodian or guardian of the child, if not otherwise provided for in the petition;

(2) In addition to the name and address of the proposed standby guardian;

(3) Which triggering event or events shall cause the authority of the appointed standby guardian to become effective;

(4) That there is a significant risk that the parent, custodian or guardian will die, become incapacitated or become debilitated within 2 years of the filing of the petition, supported by documentation from the attending physician; and

(5) If applicable, the name, address, of the proposed alternate standby guardian.

(76 Del. Laws, c. 222, § 1.)

§ 2367. Grounds for standby guardianship.

(a) Where the parent is the person suffering from a progressive chronic condition or terminal illness, prior to granting an order for standby guardianship, the Court shall find that the standby guardianship is in the child's best interests; and:

(1) The child would be dependent, neglected or abused in the care of the other parent; or

(2) The other parent of the child is deceased; or

(3) The other parent's parental rights have been terminated; or

(4) The other parent consents to the appointment of a standby guardian.

(b) Where the legal custodian or guardian is the person suffering from a progressive chronic condition or terminal illness, prior to granting an order for standby guardianship, the Court shall find that the standby guardianship is in the child's best interests; and as to each parent:

(1) That the child remains dependent, neglected or abused in the parent's care; or

(2) The parent of the child is deceased; or

(3) The parent's parental rights have been terminated; or

(4) The parent consents to the appointment of a standby guardian.

(c) The Court must also find, prior to the granting of an order for standby guardianship that there is a significant risk that the parent, legal custodian, or guardian will die, become incapacitated, or become debilitated as a result of a chronic condition or terminal illness within 2 years of the filing of the petition as certified by an attending physician.

(d) If an order for standby guardianship is granted, the order shall determine the triggering event for the standby guardianship by specifying whether:

(1) The authority of the standby guardian is effective on the receipt of a determination of the petitioner's incapacity or debilitation, or on the receipt of the certificate of the petitioner's death; or

(2) That the authority of the standby guardian may become effective earlier on written consent of the petitioner.

If at any time before the beginning of the authority of the standby guardian the Court finds that the requirements of this subchapter are no longer satisfied, the Court may rescind the order.

(76 Del. Laws, c. 222, § 1.)

§ 2368. Occurrence of event triggering appointment of standby guardian; confirmation petition.

(a) Upon the occurrence of a triggering event set forth in an order appointing a standby guardian, the appointed standby guardian shall be empowered to assume the standby guardian duties immediately.

(b) If the triggering event is the incapacity or debilitation of the parent, legal custodian or guardian, the attending physician shall provide a copy of that physician's determination to the appointed standby guardian if the guardian's identity is known to the attending physician.

(c) Within 30 days following the assumption of guardianship duties, the appointed standby guardian shall petition the Court for confirmation. The confirmation petition shall include a determination of incapacity or debilitation, or a death certificate, as appropriate. If the petition is by an alternate appointed standby guardian, the petition shall include a statement that the appointed standby guardian is unable or unwilling to act, as the basis for the statement. Absent a judicial finding or determination of unfitness, the standby guardian's power and authority shall commence immediately upon the occurrence of the triggering event and shall continue unimpeded until such time as the Court may hear the standby guardian's petition for confirmation.

(d) The Court shall confirm an appointed standby guardian previously named and otherwise qualified to serve as guardian unless there is a judicial determination of unfitness with regard to the appointed standby guardian.

(e) A standby guardian may decline appointment at any time before the assumption of that standby guardian's duties by filing a written statement to that effect with the Court, with notice to be provided to the petitioner and to the minor child if the latter is 14 years of age or older.

(f) Commencement of the duties of the standby guardian shall confer upon the appointed standby guardian shared authority with the parent, legal custodian, or guardian of the minor child unless the petition states otherwise.

(g) A parent, legal custodian, or guardian may revoke a standby guardianship by executing a written revocation, filing it with the Court where the petition was filed, and promptly notifying the appointed standby guardian of the revocation.

(h) A person who is judicially appointed as a standby guardian under this subchapter may at any time renounce the appointment by:

(1) Executing a written renunciation;

(2) Filing the renunciation with the Court; and

(3) Promptly notifying in writing the parent, legal custodian, or legal guardian of the renunciation.

(76 Del. Laws, c. 222, § 1; 70 Del. Laws, c. 186, § 1.)

§ 2369. Powers and duties of the standby guardian of the child.

Except as modified by order of the Court, the standby guardian shall have the same powers and duties as enumerated in § 2340 of this title.

(76 Del. Laws, c. 222, § 1.)

§ 2370. Termination or modification.

Except as modified by order of the Court, standby guardianship shall be terminated or modified as enumerated under § 2332 of this title.

(76 Del. Laws, c. 222, § 1.)

§ 2371. Appointment of standby guardian as permanent guardian.

Except as modified by order of the Court, should the standby guardian wish to be appointed as the permanent guardian of the child, permanent guardianship shall be determined under §§ 2350-2359 of this title.

(76 Del. Laws, c. 222, § 1.)

§ 2372. Subsidies.

Except as modified by order of the Court, DSCYF shall have the power and authority to award subsidy money to the standby guardian as determined under § 2333 of this title.

(76 Del. Laws, c. 222, § 1; 79 Del. Laws, c. 246, § 1.)

Chapter 24
Third-Party Visitation
Subchapter I
General Provisions

§ 2401. Intent and purpose.

(a) The General Assembly hereby declares that there is a need for a clear statutory framework for the proper procedures and requirements for visitation between children and persons other than their parents. The General Assembly further declares that, with the exception of Department of Services for Children, Youth and their Families (DSCYF), guardianship as set forth in Chapter 23 of this title is the appropriate legal authority for persons who wish to pursue legal custodial and guardianship rights over a child for which they are not the parent.

(b) This chapter shall be liberally construed so that these purposes may be realized. To that extent, modification of any orders pertaining to visitation involving persons other than parents that were entered under previous versions of the Code shall now be considered under this chapter. Modification of any orders pertaining to custody involving persons other than parents that were entered under previous versions of the Code shall now be considered under Chapter 23 of this title.

(77 Del. Laws, c. 43, § 9.)

§ 2402. Definitions.

For the purposes of this chapter, unless the context indicates differently:

(1) “Abuse” or “abused child” is as defined in § 901 of Title 10.

(2) “Adult” is as defined in § 901 of Title 10.

(3) “Best interests” is determined in accordance with § 722 of this title.

(4) “Child” is as defined in § 901 of Title 10.

(5) “Court” or “court” is as defined in § 901 of Title 10.

(6) “Department” or “DSCYF” is as defined in § 901 of Title 10.

(7) “Dependency” or “dependent child” is as defined in § 901 of Title 10.

(8) “Guardian” is as defined in § 2302 of this title.

(9) “Guardian ad litem” is as defined in § 2302 of this title.

(10) “Licensed agency” is as defined in § 901 of this title.

(11) “Neglect” or “neglected child” is as defined in § 901 of Title 10.

(12) “Parent” is as defined in § 2302 of this title.

(13) “Relative” is as defined in § 901 of Title 10.

(77 Del. Laws, c. 43, § 9.)

§ 2403. Jurisdiction and venue.

(a) The Family Court shall have jurisdiction over proceedings under this chapter to grant, modify and/or terminate third-party visitation orders.

(b) A petition for third-party visitation under this chapter may be filed in the Family Court of any of the following counties:

(1) The county in which the organization or persons, having legal or physical care, custody, or control of the child is located; or

(2) The county in which the child resides.

(c) The provisions of §§ 722, 724, 728(d)-(f) of this title and Chapter 7A of this title shall be applicable to proceedings filed under this chapter.

(77 Del. Laws, c. 43, § 9.)

§ 2404. Hearing procedure and notice requirements.

(a) When a petition is filed under this chapter, the Court shall set a date for a hearing on the petition, and shall cause notice of time, place and purpose of the hearing to be served as required in this section.

(b) Notice of the time, place and purpose of the hearing shall be served upon the parent or parents, guardian or guardians, person or persons, DSCYF, or licensed agency holding parental rights at the respondent’s last known address or to the address received in the petition.

(c) If the Court finds that personal service within the State cannot be accomplished upon a party, the petitioner shall cause notice to be published either on a legal notices website established by the Court or in a newspaper of general circulation in the county where the respondent is most likely to be residing.

(d) Personal service at any time prior to the hearing shall be sufficient to confer jurisdiction upon the Court.

(e) Notice provided pursuant to this section shall constitute conclusive evidence of service and a hearing will then proceed at the time and date set, with or without the appearance of the parent or parents, guardian or guardians, person or persons, Department, or licensed agency holding parental rights so notified.

(77 Del. Laws, c. 43, § 9; 83 Del. Laws, c. 96, § 6.)

§ 2405. Sanctions.

The Court may impose such sanctions or remedies as the Court deems just and proper to ensure compliance with orders entered pursuant to this chapter, including but not limited to:

(1) Extra visitation or contact with the child when it is in the child's best interest to do so;

(2) The payment of costs and reasonable counsel fees of the person applying for relief under this section;

(3) A fine in the discretion of the Court; or

(4) A term of imprisonment if a person is found to be in contempt of prior orders of the Court.

(77 Del. Laws, c. 43, § 9; 77 Del. Laws, c. 337, § 1.)

§ 2406. Confidentiality of proceedings.

All proceedings under this chapter and all records of such proceedings shall be held before the Court privately, except for reasons found sufficient to the Court, a hearing in any particular case may be made open to the public.

(77 Del. Laws, c. 43, § 9.)

§ 2407. Appeals.

Appeal from any order or decree entered under this chapter shall lie to the state Supreme Court. No appeal shall lie from any order or decree under this chapter unless taken within 30 days from the date of such order or decree.

(77 Del. Laws, c. 43, § 9.)

Subchapter II

Third-Party Visitation Proceedings

§ 2410. Persons eligible to petition for third-party visitation.

(a) Unless otherwise specified in this chapter, any adult person or persons may file a petition for a third-party visitation order regarding a child not that adult person's or persons' own against the child's guardians, parents, or DSCYF, provided that the adult person or persons can establish that the adult person or persons petitioning for visitation:

(1) Has a substantial and positive prior relationship with the child; or

(2) Is a grandparent, aunt, uncle or adult sibling of the child.

(b) Unless otherwise specified in this chapter, a guardian ad litem may petition for a third-party visitation order on behalf of the child against the child's guardian, parent, and/or DSCYF if:

(1) The adult person with whom visitation is sought consents to visitation with the child and;

(2) The adult person with whom visitation is sought:

a. Has a substantial and positive prior relationship with the child; or

b. Is a grandparent, aunt, uncle or adult sibling of the child.

(c) Any child, through a guardian ad litem, may file a petition seeking visitation with any other child with whom they have at least 1 parent in common.

(d) Notwithstanding subsections (a) through (c) of this section, if a parent's rights have been terminated in the child with whom a parent seeks third-party visitation, the terminated parent and the terminated parent's relatives are prohibited from filing for third-party visitation unless:

(1) More than 3 years have passed since the termination of parental rights order was entered and the child has not been adopted; or

(2) The adoptive parent, if there is only 1 adoptive parent, or both adoptive parents have previously entered into a written notarized agreement or court-approved agreement for continued visitation and a copy of the agreement is attached to the petition.

(77 Del. Laws, c. 43, § 9; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 337, §§ 2-5; 84 Del. Laws, c. 42, § 1.)

§ 2411. Contents of third-party visitation petition.

Every petition for third-party visitation with a child filed under this chapter shall be verified and contain:

(1) Name and place of residence of the petitioner or petitioners;

(2) Name, sex, and date of birth of the child;

(3) A statement regarding the eligibility requirements set forth in § 2410 of this title;

(4) The name and address of the mother and the name and address of the father, alleged father, and/or presumed father. If either the name and/or address of any parent is not known, the petition shall include detailed information setting forth the efforts made to locate the parent;

(5) The name and last known address of the person or persons or organization holding parental rights, custody, and/or guardianship of the child; and

(6) A statement setting forth the grounds for visitation in § 2412 of this title.

(77 Del. Laws, c. 43, § 9; 70 Del. Laws, c. 186, § 1.)

§ 2412. Grounds for persons obtaining third-party visitation with a child.

(a) Prior to granting a third-party visitation order the Court shall, find after a hearing on the merits, or accept the agreement of the parties that:

(1) Third-party visitation is in the child's best interests; and,

(2) One of the following as to each parent:

a. The parent consents to the third-party visitation;

b. The child is dependent, neglected or abused in the parent's care;

c. The parent is deceased; or

d. The parent objects to the visitation; however, the petitioner has demonstrated, by clear and convincing evidence, that the objection is unreasonable; and has demonstrated, by a preponderance of evidence, that the visitation will not substantially interfere with the parent/child relationship.

(b) Prior to granting an order for third-party visitation between children, the Court shall find after a hearing on the merits, or accept the agreement of the parties, that the visitation is in the best interests of all children subject to the petition.

(77 Del. Laws, c. 43, § 9; 77 Del. Laws, c. 337, §§ 6, 7.)

§ 2413. Modification of orders granting third-party visitation.

An order granting third-party visitation may be modified at any time if the best interests of any child subject to the order would be served by modification.

(77 Del. Laws, c. 43, § 9.)

Chapter 25
DSCYF Custody

Subchapter I
General Provisions

§ 2501. Intent and purpose.

(a) The General Assembly hereby declares that there is a need for a clear statutory framework for the proper procedures and requirements for when the Department of Services for Children, Youth and Their Families [DSCYF] is granted custody of a dependent, neglected or abused child.

(b) This chapter shall be liberally construed so that these purposes may be realized.

(c) For the purposes of applicable state and federal law, any dependent, neglected or abused child in DSCYF custody shall be considered a ward of the State.

(77 Del. Laws, c. 43, § 10.)

§ 2502. Definitions.

For the purposes of this chapter, unless the context indicates differently:

(1) "Abuse" or "abused child" is as defined in § 901 of Title 10.

(2) "Adult" is as defined in § 901 of Title 10.

(3) "Best interests" is determined in accordance with § 722 of this title.

(4) "Caregiver" means a person with whom the child is placed while in DSCYF custody including any licensed home or facility, including group homes, or any relative or nonrelative placement, including those not licensed by DSCYF. Caregiver shall not include secure facilities, facilities primarily operated for the detention of children adjudicated delinquent, accredited psychiatric residential treatment facilities or hospitals.

(5) "Child" is as defined in § 901 of Title 10.

(6) "Court" or "court" is as defined in § 901 of Title 10.

(7) "Department" or "DSCYF" is as defined in § 901 of Title 10.

(8) "Dependency" or "dependent child" is as defined in § 901 of Title 10.

(9) "Division" or "DFS" means the Division of Family Services of the Department of Services for Children, Youth and Their Families.

(10) "Foster parent" is as defined in § 2302 of this title.

(11) "Guardian" is as defined in § 2302 of this title.

(12) [Repealed.]

(13) "Licensed agency" is as defined in § 901 of this title.

(14) "Neglect" or "neglected child" is as defined in § 901 of Title 10.

(15) "Parent" is as defined in § 2302 of this title.

(16) "Parental responsibilities" is as defined in § 1101 of this title.

(17) "Permanency" is as defined in § 2302 of this title.

(18) "Reasonable and prudent parent standard" shall mean the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child, while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child placed in such caregiver's care while in DSCYF custody to participate in extracurricular, enrichment, cultural, and social activities.

(19) "Relative" is as defined in § 901 of Title 10.

(20) "School of origin" means as defined in § 202A(a) of Title 14.

(77 Del. Laws, c. 43, § 10; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 363, § 1; 80 Del. Laws, c. 417, § 2; 81 Del. Laws, c. 92, § 3; 84 Del. Laws, c. 42, § 1.)

§ 2503. Jurisdiction and venue.

(a) The Family Court shall have jurisdiction over proceedings under this chapter to grant, modify and/or terminate DSCYF custody orders.

(b) A petition for DSCYF custody under this chapter may be filed in the Family Court of any of the following counties:

(1) The county in which the organization or persons, having legal or physical care, custody, or control of the child is located; or

(2) The county in which the child resides.

(c) The provisions of §§ 722, 724, 728(d)-(f) of this title and Chapters 7A and 24 of this title shall be applicable to proceedings filed under this chapter.

(77 Del. Laws, c. 43, § 10.)

§ 2504. Hearing procedure and notice requirements.

(a) When a petition is filed under this chapter, the Court shall set a date for a hearing on the petition, and shall cause notice of time, place, and purpose of the hearing to be served as required in this section.

(b) Notice of the time, place, and purpose of the hearing shall be served upon each parent, guardian, or licensed agency holding parental rights at the respondent's last known address or to the address received in the petition. Notice to a parent must include the right to an attorney, if indigent, as provided in subsection (g) of this section.

(c) If the Court finds that personal service within the State cannot be accomplished upon a party, the petitioner shall cause notice to be published either on a legal notices website established by the Court or in a newspaper of general circulation in the county where the respondent is most likely to be residing.

(d) Personal service at any time prior to the hearing shall be sufficient to confer jurisdiction upon the Court.

(e) Notice provided pursuant to this section shall constitute conclusive evidence of service and a hearing will then proceed at the time and date set, with or without the appearance of a party so notified.

(f) When a petition is filed under this chapter, the Court shall appoint an attorney authorized to practice law in this State to represent the child. When appointing an attorney, the Court may also appoint a Court Appointed Special Advocate volunteer to work in conjunction with the attorney. The rights, responsibilities and duties in representing the child are set forth in § 9007A of Title 29. For the purposes of the Child Abuse Prevention and Treatment Act (42 U.S.C. § 5106a, et seq.), the attorney for the child and the Court Appointed Special Advocate volunteer, if one is appointed, shall fulfill the role of guardian ad litem for the child.

(g) A parent against whom a petition is filed under this chapter shall have the right to counsel at all stages of the court proceedings. The Court shall ensure an attorney authorized to practice law in this State is appointed to represent any parent who is indigent. The Court may refer a parent to a legal services entity contracted by the Court or to the Office of Defense Services for an indigency determination and appointment of an attorney. If necessary, the Court may make an indigency determination and directly appoint an attorney who is a member of the private bar. When emergency custody or other emergency relief is sought, the referral must occur contemporaneously with the issuance of the ex parte order pursuant to § 2512 of this title. The attorney shall serve as counsel for the indigent parent for the duration of the case, which includes serving as counsel in any appeal taken to the Supreme Court of Delaware and reinstatement of parental rights. In the event an indigent parent declines appointment of counsel, the Court shall include the waiver of appointment in its order.

(77 Del. Laws, c. 43, § 10; 80 Del. Laws, c. 417, § 2; 83 Del. Laws, c. 96, § 7; 84 Del. Laws, c. 510, § 1.)

§ 2505. Sanctions.

The Court may impose such sanctions or remedies as the Court deems just and proper to ensure compliance with this chapter, including but not limited to:

(1) Extra visitation or contact with the child when it is in the child's best interest to do so;

(2) The payment of costs and reasonable counsel fees of the person or agency applying for relief under this section; or

(3) A fine in the discretion of the Court.

(77 Del. Laws, c. 43, § 10.)

§ 2506. Confidentiality of proceedings.

All proceedings under this chapter and all records of such proceedings shall be held before the Court privately, except for reasons found sufficient to the Court, a hearing in any particular case may be made open to the public.

(77 Del. Laws, c. 43, § 10.)

§ 2507. Appeals.

Appeal from any order or decree entered under this chapter shall lie to the state Supreme Court. No appeal shall lie from any order or decree under this chapter unless taken within 30 days from the date of such order or decree.

(77 Del. Laws, c. 43, § 10.)

Subchapter II

Custody Proceedings

§ 2510. Applicability.

The provisions of this subchapter shall apply exclusively to the DSCYF when seeking and/or obtaining custody of a child on the basis of dependency, neglect or abuse. This subchapter shall not be construed as preventing DSCYF from obtaining or seeking guardianship, termination of parental rights and/or adoption regarding a child as provided for in Chapters 9, 11 and 23 of this title. This subchapter shall

be liberally construed such that the child's health and safety is the highest priority and of paramount concern as required by the Adoption and Safe Families Act, 42 U.S.C. § 671 et seq. and state law.

(77 Del. Laws, c. 43, § 10.)

§ 2511. Contents of DSCYF petition for custody.

(a) The petition for DSCYF custody shall state:

(1) Name and address of the petitioning agency;

(2) Name, sex, date of birth of the child and, if known, the child's school of origin;

(3) The name and address of the parents, alleged father or presumed father, and if applicable, the name and address of any custodian or guardian.

(4) If the name or address of any person or organization described in paragraph (a)(3) of this section is unavailable or unknown, DSCYF shall furnish detailed information concerning the efforts made to identify and locate such individual or organization;

(5) The DSCYF allegations of dependency, neglect, and/or abuse against each parent;

(6) Efforts, where practical, made by DSCYF to identify a fit and willing relative to care for the child;

(7) A statement regarding why continuing the placement of the child in the home of the parents, guardian, custodian or caretaker is contrary to the welfare of the child; and

(8) A statement why it is in the best interests of the child to be placed in DSCYF custody.

(77 Del. Laws, c. 43, § 10; 70 Del. Laws, c. 186, § 1.)

§ 2512. Grounds for DSCYF custody; preliminary injunction.

(a) When emergency custody or other emergency relief is sought by DSCYF, the Court may issue an ex parte order awarding emergency custody to DSCYF and order removal of a child from the home upon the establishment that:

(1) Continuation in the home is contrary to the welfare of the child; and

(2) Probable cause exists to believe that:

a. A child continues to be in actual physical, mental or emotional danger or there is a substantial imminent risk thereof or;

b. Immediate or irreparable harm may result to the child if such an order is not issued.

(b) Prior to granting an adjudicatory order for DSCYF custody, the Court shall find after a hearing on the merits, or accept the agreement of the parties, that:

(1) As to each parent, the child is dependent, neglected or abused;

(2) It is in the child's best interests to be in DSCYF custody.

(c) Should the elements of subsection (b) of this section be met, the Court shall also determine after a hearing on the merits or accept the agreement of the parties, the nature and extent, if any, of any contact, sharing of information and/or visitation between the parent and the child. In making such a determination, the Court shall apply the best interests of the child standard set forth in § 722 of this title, unless Chapter 7A or § 728(d)-(f) of this title apply.

(77 Del. Laws, c. 43, § 10.)

§ 2512A. Enforcement of DSCYF custody order.

A law-enforcement officer may enter private property to take physical custody of a child for the purpose of enforcing a court order granting DSCYF custody of the child when such order requests the assistance of a law-enforcement officer.

(83 Del. Laws, c. 461, § 4.)

§ 2513. Termination, modification or rescission of DSCYF custody order.

(a) *Termination.* — Except as otherwise specified in this chapter, DSCYF custody of a child terminates:

(1) Upon the child's death;

(2) Upon adoption of the child;

(3) When the child reaches the age of majority;

(4) Upon the granting of a guardianship petition pursuant to Chapter 23 of this title; or

(5) As otherwise ordered by the Court.

(b) *Modification.* — Except as otherwise specified in this chapter, a DSCYF custody order may be modified at any time. In making a determination to modify the order the Court shall apply the best interests of the child standard and Chapter 7A and § 728(d)-(f) of this title, if applicable.

(c) *Rescission.* — Except as otherwise specified in this chapter, DSCYF custody may be rescinded upon a judicial determination that the child is no longer dependent, neglected or abused in the parent's care. The Court may rescind custody to the original custodial arrangement between the parents or an alternative custodial arrangement as determined by the Court to be in the child's best interests.

(77 Del. Laws, c. 43, § 10.)

§ 2514. Court findings for children in DSCYF custody.

Should the Court find the elements of § 2512(b) of this title, have been met, the Court shall make findings and issue orders at each subsequent hearing regarding the following:

(1) What the permanency plan is, and whether DSCYF has made reasonable efforts to finalize that permanency plan;

(2) If the permanency plan is another planned permanent living arrangement,

a. Whether the child is at least 16 years of age, as this plan is prohibited for any child less than age 16.

b. Whether DSCYF has documented its intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by DSCYF to return the child home or secure placement of the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, including thorough efforts that utilize search technology including social media, to find biological family members for the child.

c. What the child's desired permanency outcome is by asking the child, or where not feasible, the child's legal representative.

d. What are the compelling reasons that it continues to not be in the child's best interests to be returned home, adopted, placed with a legal guardian or with a fit and willing relative.

(3) Whether DSCYF has ensured:

a. The caregiver is exercising the reasonable and prudent parent standard.

b. The child has regular, ongoing opportunities to engage in age- or developmentally-appropriate activities, and that any barriers to participation have been identified and addressed.

c. The child has been consulted in an age-appropriate manner about the opportunities of the child to participate in the activities.

(80 Del. Laws, c. 363, § 1.)

§ 2515. Authority to order transition plan and adult mental or behavioral health diagnosis.

(a) When a child 17 years of age or older is in the custody of DSCYF, the Court may order the Department of Health and Social Services to determine whether the child qualifies for adult mental health or behavioral health services and, if so, to coordinate with DSCYF to develop and implement a transition plan for mental or behavioral health services for the child. The Court may further order that the transition plan include any of the following:

(1) An appropriate adult mental or behavioral health diagnosis for the child.

(2) A list of prospective adult services for which the child might qualify.

(3) Any other information or relief that the Court finds relevant to the child's transition to adulthood.

(b) DSCYF or the Department of Health and Social Services, or the appropriate divisions of either, shall develop and submit the transition plan that the Court has ordered under this section in a timely manner, as the Court directs.

(81 Del. Laws, c. 164, § 1.)

Subchapter III

Powers and Duties

§ 2520. Duties and rights of parents under a DSCYF custody order.

(a) Unless the parental rights have been terminated, a parent whose child is in DSCYF custody may petition for and seek enforcement of:

(1) An order for visitation, contact, and/or information regarding the child if not otherwise prohibited by law;

(2) Unless otherwise ordered by the Court or authorized by statute, an order that DSCYF is required to make reasonable efforts at reunifying the child with such parent;

(3) An order rescinding custody from DSCYF to the parent.

(b) Unless the parental rights have been terminated, a parent whose child is in DSCYF custody maintains the right, unless otherwise ordered by the Court, to:

(1) Consent to certain medical or mental health care for the child as set forth in § 2521(2) of this title.

(2) Consent to educational decisions for the child, subject to applicable state and federal law, as set forth in § 2521(4) of this title.

(3) Attend and participate in school related meetings and activities related to the child, attend extracurricular activities, attend medical/dental appointments, and access medical/dental records regarding the child.

(c) Unless parental rights have been terminated, a parent whose child is in DSCYF custody shall have the following duties:

(1) To support the child financially as provided for in Chapter 5 of this title, unless just cause exists under § 506 of this title;

(2) To engage in offered services to alleviate or mitigate the causes necessitating placement in DSCYF custody, in cases where the DSCYF is providing reunification services to the parents.

(77 Del. Laws, c. 43, § 10.)

§ 2521. Powers and duties of the DSCYF as custodian of the child.

Upon the Court granting custody to DSCYF, DSCYF shall be vested with the following powers and duties:

(1) To provide for appropriate placement of the child, within or outside of this State, unless otherwise ordered by Court or controlled by statute, with reasonable notice prior to any change in placement given to the child's attorney and Court Appointed Special Advocate volunteer.

(2) To consent to medical care for the child, including medical examination, medical treatment including surgical procedures and mental health treatment other than inpatient psychiatric hospitalization, except as provided in § 5003(f) of Title 16. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the child's attorney and Court Appointed Special Advocate volunteer, prior to obtaining medical care.

(3) To continue the child in the child's school of origin, or when not feasible or not in the child's best interests, to immediately enroll the child in school pursuant to § 202 of Title 14. The Court shall determine if the school placement is in the child's best interest.

(4) To consent to educational decisions, subject to applicable state and federal law, including disciplinary proceedings and consequences, and academic needs; and to request the appointment of an education decision maker under § 930 of Title 10 or an educational surrogate parent under § 3132 of Title 14 when appropriate. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the child's attorney and Court Appointed Special Advocate volunteer, prior to making any educational decisions on behalf of the child.

(5) To request a credit report for the child annually after the child reaches the age of 14 years old and to inspect the credit report for any potential identity theft as described in § 854 of Title 11, and, from ages 18 through 23, to assist the youth who was previously in DSCYF's custody and continues to receive transitional and independent living services through a DSCYF-contracted provider in reviewing and repairing the youth's credit.

(6) To ensure, consistent with DSCYF case and placement planning responsibilities under federal and state law, that the child's service plan provides the opportunity to participate in age-appropriate or developmentally-appropriate activities and experiences to promote healthy child and adolescent development.

(7) To ensure standards and policies are in place, consistent with the reasonable and prudent parent standard.

(8) To provide training and monitoring to all caregivers, regardless of whether they are required to meet the DSCYF licensing requirements, on the reasonable and prudent parent standard. Training on the reasonable and prudent parent standard shall include parenting skills for children who have experienced trauma, healthy sexual development, and implementing the standard for children with special needs. Such training shall be provided annually to all licensed caregivers, and upon placement, to all nonlicensed caregivers.

(9) To provide each child in DSCYF custody with new luggage for the child to use for the transportation of personal belongings when the child is entering DSCYF custody, moving from 1 foster care placement to another, or exiting foster care. DSCYF is not required to provide new luggage to a child who has already been provided with and remains in possession of new luggage provided by DSCYF.

a. For purposes of this paragraph, "new luggage" means a suitcase, duffel bag, backpack, or similar container that is designed to hold an individual's personal belongings and has not been previously used. Under no circumstance does "new luggage" include a disposable bag or trash bag.

b. The Department must establish and maintain a supply of new luggage to be used to transport the personal belongings of children in DSCYF custody and develop procedures for the storage and distribution of new luggage intended for children in custody.

c. When providing new luggage to a child in DSCYF custody, DSCYF must take into account the child's age, mobility, personal items to be transported, and preferences.

d. DSCYF may not use or require a child to use disposable bags or trash bags to transport any personal items while in DSCYF custody.

e. DSCYF may solicit and accept gifts, grants, and donations of any kind and from any source to carry out the provisions of this subsection.

f. On or before December 1 of each year, DSCYF must submit a report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Director and Librarian of the Division of Legislative Services, containing a description of the current supply of new luggage and inventory management procedures for the new luggage supply maintained under this subsection.

(10) To maintain any other powers and duties as conferred by statute in the Delaware Code.

(77 Del. Laws, c. 43, § 10; 78 Del. Laws, c. 361, § 1; 80 Del. Laws, c. 363, § 1; 80 Del. Laws, c. 417, § 2; 81 Del. Laws, c. 91, § 2; 83 Del. Laws, c. 300, § 1; 83 Del. Laws, c. 432, § 1; 84 Del. Laws, c. 255, § 36; 84 Del. Laws, c. 478, § 1.)

§ 2522. Rights of children in DSCYF custody.

(a) All dependent, neglected and abused children in DSCYF custody under this chapter shall have the following rights in accordance with their ages and developmental levels, unless prohibited by court order:

(1) To be informed of the reason they have been placed in DSCYF custody.

(2) To receive water, food, shelter, and clothing that is necessary and appropriate for their ages and individual needs.

(3) To be free from abuse or neglect.

(4) To have assistance in obtaining access to medical, vision, and dental treatment that is necessary and appropriate for their ages and individual needs; and to have assistance in obtaining access to necessary and appropriate mental health and substance abuse treatment if the need for such treatment is identified.

(5) To receive appropriate placement services.

(6) To contact and visit with their parents, siblings in DSCYF custody, and other individuals, including their own child in DSCYF custody. If such contact or visitation is inappropriate, the child has the right to be notified of the reason for that decision.

(7) To have assistance in obtaining access to an education, at their schools of origin when feasible, with minimal disruption to their education when they are placed in DSCYF custody.

(8) To participate in the formation and maintenance of their foster care service, transitional and independent living and transition plans, where applicable; and beginning at age 14:

a. To be actively engaged and consulted in the development and implementation of those services and plans, as well as in any revisions or additions to those services or plans; and

b. At the option of the child, to involve 2 individuals in case planning that are selected by the child and who are not a foster parent or caseworker for the child, except that DSCYF may reject an individual so selected by the child if DSCYF has good cause to believe the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard to the child.

(9) To have regular and meaningful access to and have confidential contact with their caseworkers and attorneys or court-appointed special advocates.

(10) To be notified, attend, and participate in court hearings and to speak to the judge regarding any decision that may have an impact on their lives.

(11) To have their confidentiality protected as required by state and federal law.

(12) To receive transitional and independent living services and supports beginning at age 16 if eligible and if resources are available.

(13) To have the opportunity to participate in age-appropriate or developmentally-appropriate activities and experiences to promote healthy development, and to have those opportunities explained to them in an age- and developmentally-appropriate manner, consistent with the reasonable and prudent parent standard.

(14) To report any violation of their rights or the violation of the rights of others without being punished or retaliated against for such reporting.

(15) To have these rights explained in an age-appropriate manner, and for youth age 14 and older to sign an acknowledgement that the rights have been explained, and to receive a copy of the rights set forth in this section.

(b) Any child aggrieved by a violation of this section may motion the court, through an attorney or court-appointed special advocate, for appropriate equitable relief.

(80 Del. Laws, c. 144, § 1; 80 Del. Laws, c. 363, § 1; 83 Del. Laws, c. 300, § 1.)

§ 2523. Duties, authority and liability protection of caregivers to children in DSCYF custody.

(a) Caregivers of children in DSCYF custody have the responsibility and authority to exercise the reasonable and prudent parent standard to provide or withhold permission for children in their care to participate in and experience age-appropriate or developmentally-appropriate activities and experiences, including extracurricular, cultural and social enrichment. The authority of a caregiver:

(1) Must be exercised using the reasonable and prudent parent standard and the caregiver's actions do not conflict with any applicable court order or service plan; and

(2) May be exercised without the prior approval of DSCYF or the Court.

(b) In determining whether a decision of a caregiver is reasonable and prudent according to § 2502 of this title, the following should be considered:

(1) The child's age, maturity and developmental level to maintain the overall health and safety of the child.

(2) The potential risk factors to the child or to others and the appropriateness of the activity and experience for extracurricular, cultural or social enrichment.

(3) The wishes of the child.

(4) The wishes of the parent.

(5) The best interests of the child based on information known by the caregiver.

(6) The importance of encouraging the child's emotional and developmental growth.

(7) The importance of supporting the child in developing skills to successfully transition to adulthood, including guidance on healthy sexual development.

(8) The importance of providing the child with the most family-like living experience possible.

(9) Any special needs or accommodations that the child may need to safely participate in the activity or experience.

(c) A caregiver is not liable for harm caused to a child who participates in an activity or experience approved by the caregiver if all of the following circumstances are met:

(1) The caregiver acts in accordance with the reasonable and prudent parent standard.

(2) The caregiver has completed the required training relating to the reasonable and prudent parent standard prior to giving the approval.

(3) The approval does not conflict with any applicable court order or service plan.

This section does not remove or limit any existing liability protection afforded by any other law.

(80 Del. Laws, c. 363, § 1; 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 127, § 1; 84 Del. Laws, c. 42, § 1.)