

ENROLLED ACT NO. 40, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to juveniles; amending provisions relating to the Uniform Parentage Act, paternity establishment, genetic testing, assisted reproduction; conforming provisions; specifying applicability of paternity proceedings prior to the effective date of the act; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-2-401 through 14-2-408, 14-2-501 through 14-2-504, 14-2-601 through 14-2-614, 14-2-701 through 14-2-710, 14-2-801 through 14-2-823 and 14-2-901 through 14-2-907 are created to read:

ARTICLE 4
GENERAL PROVISIONS

14-2-401. Short title.

This act shall be known and may be cited as the Wyoming Parentage Act.

14-2-402. Definitions.

(a) As used in this act:

(i) "Acknowledged father" means a man who has established a father-child relationship under article 6 of this act;

(ii) "Adjudicated father" means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child;

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(iii) "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:

(A) A presumed father;

(B) A man whose parental rights have been terminated or declared not to exist; or

(C) A male donor.

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

(A) Intrauterine insemination;

(B) Donation of eggs;

(C) Donation of embryos;

(D) In-vitro fertilization and transfer of embryos; and

(E) Intracytoplasmic sperm injection.

(v) "Child" means an individual of any age whose parentage may be determined under this act;

(vi) "Commence" means to file the initial pleading seeking an adjudication of parentage in a district court of this state;

(vii) "Determination of parentage" means the establishment of the parent-child relationship by the

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signing of a valid acknowledgment of paternity under article 5 of this act or by adjudication by the court;

(viii) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

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

(B) A woman who gives birth to a child by means of assisted reproduction;

(C) A parent under article 9 of this chapter.

(ix) "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;

(x) "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 one (1) or a combination of the following:

(A) Deoxyribonucleic acid; and

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

(xi) "Man" means a male individual of any age;

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(xii) "Parent" means an individual who has established a parent-child relationship under W.S. 14-2-501;

(xiii) "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;

(xiv) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

(A) 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

(B) 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.

(xv) "Presumed father" means a man who, by operation of law under W.S. 14-2-504, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding;

(xvi) "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;

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(xvii) "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;

(xviii) "Signatory" means an individual who authenticates a record and is bound by its terms;

(xix) "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;

(xx) "Title IV-D" means Title IV-D of the federal Social Security Act;

(xxi) "This act" means W.S. 14-2-401 through 14-2-907.

14-2-403. Scope of act; choice of law.

(a) This act applies to every 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:

(i) The place of birth of the child; or

(ii) The past or present residence of the child.

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

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(d) This act does not authorize or prohibit an agreement between a woman and a man and another woman in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction, and which provides that the man and the other woman become the parents of the child. If a birth results under such an agreement and the agreement is unenforceable under Wyoming law, the parent-child relationship is determined as provided in article 4 of this act.

14-2-404. Court of this state.

The district court is authorized to adjudicate parentage under this act.

14-2-405. Protection of participants.

Proceedings under this act are subject to other law of this state governing the health, safety, privacy and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, social security number and the child's day-care facility and school.

14-2-406. Determination of maternity.

Provisions of this act relating to determination of paternity apply to determinations of maternity.

14-2-407. Severability clause.

If any provision of this act or its application to an individual or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision

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or application, and to this end the provisions of this act are severable.

14-2-408. Free transcript for appeal.

If a party is financially unable to pay the cost of a transcript, the court shall furnish on request a transcript for purposes of appeal under this act.

ARTICLE 5
PARENT-CHILD RELATIONSHIP

14-2-501. Establishment of parent-child relationship.

(a) The mother-child relationship is established between a woman and a child by:

(i) The woman's having given birth to the child;

(ii) An adjudication of the woman's maternity;

or

(iii) Adoption of the child by the woman.

(b) The father-child relationship is established between a man and a child by:

(i) An un rebutted presumption of the man's paternity of the child under W.S. 14-2-504;

(ii) An effective acknowledgment of paternity by the man under article 6 of this act, unless the acknowledgment has been rescinded or successfully challenged;

(iii) An adjudication of the man's paternity;

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(iv) Adoption of the child by the man; or

(v) The man's having consented to assisted reproduction by his wife under article 8 of this act which resulted in the birth of the child.

14-2-502. No discrimination based on marital status.

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.

14-2-503. Consequences of establishment of parentage.

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

14-2-504. Presumption of paternity in context of marriage.

(a) A man is presumed to be the father of a child if:

(i) He and the mother of the child are married to each other and the child is born during the marriage;

(ii) He and the mother of the child were married to each other and the child is born within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, divorce or after the entry of a decree of separation;

(iii) Before the birth of the child, he and the mother of the child married each other in apparent

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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 three hundred (300) days after its termination by death, annulment, declaration of invalidity, divorce or after the entry of a decree of separation;

(iv) 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:

(A) The assertion is in a record filed with the state office of vital records;

(B) He agreed to be and is named as the child's father on the child's birth certificate; or

(C) He promised in a record to support the child as his own.

(v) For the first two (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 article 8 of this act.

ARTICLE 6
VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

14-2-601. Acknowledgment of paternity.

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(a) 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.

(b) An acknowledgment of paternity of a child born in Wyoming may be filed with the state office of vital records.

14-2-602. Execution of acknowledgment of paternity.

(a) An acknowledgment of paternity shall:

(i) Be in a record;

(ii) Be signed, or otherwise authenticated, under penalty for false swearing by the mother and by the man seeking to establish his paternity;

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

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

(B) Does not have another acknowledged or adjudicated father.

(iv) 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

(v) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge

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to the acknowledgment is permitted only under limited circumstances and is barred after two (2) years.

(b) An acknowledgment of paternity is void if it:

(i) States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father or a court order rebutting the presumption is filed with the state office of vital records;

(ii) States that another man is an acknowledged or adjudicated father; or

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

(c) A presumed father may sign or otherwise authenticate an acknowledgment of paternity.

14-2-603. Denial of paternity.

(a) A presumed father may sign a denial of his paternity. The denial is valid only if:

(i) An acknowledgment of paternity signed, or otherwise authenticated, by another man is filed pursuant to W.S. 14-2-605;

(ii) The denial is in a record, and is signed, or otherwise authenticated, under penalty of perjury; and

(iii) The presumed father has not previously:

(A) Acknowledged his paternity, unless the previous acknowledgment has been rescinded pursuant to W.S.

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14-2-607 or successfully challenged pursuant to W.S.
14-2-608; or

(B) Been adjudicated to be the father of
the child.

**14-2-604. Rules for acknowledgment and denial of
paternity.**

(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 acknowledgement 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 state office of vital records, whichever
occurs later.

(d) An acknowledgment of paternity or denial of
paternity signed by a minor and a legal guardian of the
minor is valid if it is otherwise in compliance with this
act.

**14-2-605. Effect of acknowledgment or denial of
paternity.**

(a) Except as otherwise provided in W.S. 14-2-607 and
14-2-608, a valid acknowledgment of paternity filed with
the state office of vital records is equivalent to an
adjudication of paternity of a child and confers upon the

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acknowledged father all of the rights and duties of a parent.

(b) Except as otherwise provided in W.S. 14-2-607 and 14-2-608, a valid denial of paternity by a presumed father filed with the state office of vital records 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.

14-2-606. No filing fee.

The state office of vital records shall not charge for filing an acknowledgment of paternity or denial of paternity.

14-2-607. Proceeding for rescission.

(a) A signatory may rescind an acknowledgment of paternity or denial of paternity by commencing a proceeding to rescind before the earlier of:

(i) Sixty (60) days after the effective date of the acknowledgment or denial, as provided in W.S. 14-2-604; or

(ii) 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.

14-2-608. Challenge after expiration of period for rescission.

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(a) After the period for rescission under W.S. 14-2-607 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

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

(ii) Within two (2) years after the acknowledgment or denial is filed with the state office of vital records.

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

14-2-609. Procedure for rescission or challenge.

(a) Every signatory to an acknowledgment of paternity and any related denial of paternity shall 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 state office of vital records.

(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.

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(d) A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity shall be conducted in the same manner as a proceeding to adjudicate parentage under article 8 of this act.

(e) At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court shall order the state office of vital records to amend the birth record of the child, if appropriate.

14-2-610. Ratification barred.

A court or administrative agency conducting a judicial or administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of paternity.

14-2-611. Full faith and credit.

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.

14-2-612. Forms for acknowledgment and denial of paternity.

(a) To facilitate compliance with this article, the state office of vital records 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.

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(c) Every hospital or birthing center located in the state shall provide to any person who holds himself out to be the natural parent of a child born in the state an affidavit of paternity pursuant to this act. The facility providing the affidavit shall forward the completed affidavit to the state office of vital records. Upon request, the state office of vital records shall provide blank affidavits of paternity to any facility making the request under this subsection.

14-2-613. Release of information.

The state office of vital records may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial, to courts and to the Title IV-D agency of this or another state.

14-2-614. Adoption of rules.

The state office of vital records may adopt rules to implement this article.

ARTICLE 7
GENETIC TESTING

14-2-701. Scope of article.

(a) This article governs genetic testing of an individual to determine parentage, whether the individual:

(i) Voluntarily submits to testing; or

(ii) Is tested pursuant to an order of the court or a child support enforcement agency.

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14-2-702. Order for testing.

(a) Except as otherwise provided in this article and article 8 of this act, 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:

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

(ii) 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 child 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 child support enforcement agency may not order in-utero testing.

(d) If two (2) or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

14-2-703. Requirements for genetic testing.

(a) Genetic testing shall be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

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(i) The American Association of Blood Banks, or a successor to its functions;

(ii) The American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

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

(b) A specimen used in genetic testing may consist of one (1) or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing is not required to 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:

(i) The individual objecting may require the testing laboratory, within thirty (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.

(ii) The individual objecting to the testing laboratory's initial choice shall:

(A) 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

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(B) Engage another testing laboratory to perform the calculations.

(iii) 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 W.S. 14-2-605, an individual who has been tested may be required to submit to additional genetic testing.

14-2-704. Report of genetic testing.

(a) A report of genetic testing shall 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 article 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:

(i) The names and photographs of the individuals whose specimens have been taken;

(ii) The names of the individuals who collected the specimens;

(iii) The places and dates the specimens were collected;

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(iv) The names of the individuals who received the specimens in the testing laboratory; and

(v) The dates the specimens were received.

14-2-705. Genetic testing results; rebuttal.

(a) Under this act, a man is rebuttably identified as the father of a child if the genetic testing complies with this article and the results disclose that:

(i) The man has at least a ninety-nine percent (99%) probability of paternity, using a prior probability of one-half (1/2), as calculated by using the combined paternity index obtained in the testing; and

(ii) A combined paternity index of at least one hundred (100) to one (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 article which:

(i) Excludes the man as a genetic father of the child; or

(ii) Identifies another man as the possible father of the child.

(c) Except as otherwise provided in W.S. 14-2-710, if more than one (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.

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14-2-706. Costs of genetic testing.

(a) Subject to assessment of costs under article 7 of this act, the cost of initial genetic testing shall be advanced:

(i) By a child support enforcement agency in a proceeding in which the agency is providing services;

(ii) By the individual who made the request;

(iii) As agreed by the parties; or

(iv) As ordered by the court.

(b) In cases in which the cost is advanced by the child support enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

14-2-707. Additional genetic testing.

The court or the child 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 W.S. 14-2-705, the court or agency may not order additional testing unless the party provides advance payment for the testing.

14-2-708. Deceased individual.

For good cause shown, the court may order genetic testing of a deceased individual.

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14-2-709. Identical brothers.

(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 W.S. 14-2-705 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.

14-2-710. Confidentiality of genetic testing.

(a) In all cases where paternity testing is undertaken, all genetic information, including genetic material and test results, shall be maintained only as long as an accreditation body specified in W.S. 14-2-703 requires such materials to be maintained for accreditation purposes. Thereafter, all materials shall be destroyed or returned to the individual from whom the information was obtained.

(b) No testing shall be conducted on any identifiable genetic material for purposes other than paternity determination without the written consent of the individual from whom the genetic material is obtained.

(c) All information obtained from identifiable genetic material submitted or used for determination of paternity shall be confidential and used solely for the purposes of determining paternity, unless individual identifiers are removed from the data used for purposes other than establishing paternity.

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(d) For purposes of this section, "genetic information" means any information about genes, gene products or inherited characteristics that may derive from the individual or a family member, including, but not limited to, information:

(i) Regarding carrier status;

(ii) Regarding an increased likelihood of future disease or increased sensitivity to any substance;

(iii) Derived from laboratory tests that identify mutations in specific genes or chromosomes, physical medical examinations, family histories, requests for genetic services or counseling, tests of gene products and direct analysis of genes or chromosomes.

(e) Release of any information obtained in paternity testing without the written consent of the individual from whom the genetic material is obtained to anyone not directly involved in the paternity determination shall be a misdemeanor and upon conviction shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both fine and imprisonment.

(f) An individual who intentionally releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen commits a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both fine and imprisonment.

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ARTICLE 8
PROCEEDING TO ADJUDICATE PARENTAGE

14-2-801. Proceeding authorized.

A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the Wyoming Rules of Civil Procedure.

14-2-802. Standing to maintain proceeding.

(a) Subject to article 5 of this act and W.S. 14-2-807 and 14-2-809, a proceeding to adjudicate parentage may be maintained by:

- (i) The child;
- (ii) The mother of the child;
- (iii) A man whose paternity of the child is to be adjudicated;
- (iv) The child support enforcement agency;
- (v) An authorized adoption agency or licensed child-placing agency; or
- (vi) 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.

14-2-803. Parties to proceeding.

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(a) The following individuals shall be joined as parties in a proceeding to adjudicate parentage:

(i) The mother of the child; and

(ii) A man whose paternity of the child is to be adjudicated.

14-2-804. Personal jurisdiction.

(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 W.S. 20-4-142 are met.

(c) Lack of jurisdiction over one (1) individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

14-2-805. Venue.

(a) Venue for a proceeding to adjudicate parentage is in the county of this state in which:

(i) The child resides or is found;

(ii) The respondent resides or is found if the child does not reside in this state; or

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(iii) A proceeding for probate or administration of the presumed or alleged father's estate has been commenced.

14-2-806. No limitation; child having no presumed, acknowledged or adjudicated father.

(a) A proceeding to adjudicate the parentage of a child having no presumed, acknowledged or adjudicated father may be commenced at any time, even after:

(i) The child becomes an adult but only if the child initiates the proceeding; or

(ii) An earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

14-2-807. Limitation; child having presumed father.

(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 shall be commenced within a reasonable time after obtaining knowledge of relevant facts, but in no event later than five (5) years after the child's birth.

(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:

(i) 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

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(ii) The presumed father never openly held out the child as his own.

14-2-808. Authority to deny motion for genetic testing.

(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:

(i) The conduct of the mother or the presumed or acknowledged father estops that party from denying parentage; and

(ii) 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 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:

(i) 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;

(ii) The length of time during which the presumed or acknowledged father has assumed the role of father of the child;

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

(iv) The nature of the relationship between the child and the presumed or acknowledged father;

(v) The age of the child;

(vi) The harm that may result to the child if presumed or acknowledged paternity is successfully disproved;

(vii) The nature of the relationship between the child and any alleged father;

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

(ix) 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.

(c) In a proceeding involving the application of this section, a minor or incapacitated child shall be represented by a guardian ad litem.

(d) Denial of a motion seeking an order for genetic testing shall be based on clear and convincing evidence.

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(e) If the court denies a motion seeking an order for genetic testing, it shall issue an order adjudicating the presumed father to be the father of the child.

14-2-809. Limitation; child having acknowledged or adjudicated father.

(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 acknowledgement or denial or challenge the paternity of the child only within the time allowed under W.S. 14-2-607 or 14-2-608.

(b) If a child has an acknowledged father or an adjudicated father, an individual, other than the child, 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 shall commence a proceeding not later than two (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 under W.S. 14-2-808.

14-2-810. Joinder of proceedings.

(a) Except as otherwise provided in subsection (b) 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, legal separation or separate maintenance, probate or administration of an estate or other appropriate proceeding.

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(b) A respondent may not join a proceeding described in subsection (a) of this section with a proceeding to adjudicate parentage brought under the Uniform Interstate Family Support Act.

14-2-811. Proceeding before birth.

(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. The following actions may be taken before the birth of the child:

(i) Service of process;

(ii) Discovery; and

(iii) Except as prohibited by W.S. 14-2-702, collection of specimens for genetic testing.

14-2-812. Child as party; representation.

(a) A minor child is a permissible party, but is not a necessary party to a proceeding under this article.

(b) The court shall appoint an attorney to represent the best interest of 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.

14-2-813. Admissibility of results of genetic testing; expenses.

(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

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within fourteen (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:

(i) Voluntarily or pursuant to an order of the court or a child support enforcement agency; or

(ii) Before or after the commencement of the proceeding.

(b) A party objecting to the results of genetic testing may call one (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:

(i) With the consent of both the mother and the presumed, acknowledged or adjudicated father; or

(ii) Pursuant to an order of the court under W.S. 14-2-702.

(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 ten (10) days before the date of a hearing are admissible to establish:

(i) The amount of the charges billed; and

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

14-2-814. Consequences of declining genetic testing.

(a) A person who declines to comply with an order for genetic testing is guilty of contempt of court.

(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.

14-2-815. Admission of paternity authorized.

(a) A respondent in a proceeding to adjudicate parentage 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.

14-2-816. Temporary order.

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(a) In a proceeding under this article, 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:

(i) A presumed father of the child;

(ii) Petitioning to have his paternity adjudicated;

(iii) Identified as the father through genetic testing under W.S. 14-2-705;

(iv) An alleged father who has declined to submit to genetic testing;

(v) Shown by clear and convincing evidence to be the father of the child; or

(vi) The mother of the child.

(b) A temporary order may include provisions for custody and visitation as provided by other law of this state.

14-2-817. Rules for adjudication of paternity.

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

(i) 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;

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(ii) 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 W.S. 14-2-705 shall be adjudicated the father of the child;

(iii) If the court finds that genetic testing under W.S. 14-2-705 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;

(iv) 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 shall be adjudicated not to be the father of the child.

14-2-818. Jury prohibited.

The court, without a jury, shall adjudicate paternity of a child.

14-2-819. Hearings; inspection of records.

Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this act shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. 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 state office of vital records services or elsewhere, are subject to inspection only by court order.

14-2-820. Order on default.

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(a) The court shall issue an order adjudicating the paternity of a man who:

(i) After service of process, is in default; and

(ii) Is found by the court to be the father of a child.

14-2-821. Dismissal for want of prosecution.

The court may issue an order dismissing a proceeding commenced under this act 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.

14-2-822. Order adjudicating parentage.

(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 shall identify the child by name and date of birth.

(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, necessary travel and other reasonable expenses incurred in a proceeding under this article. 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 child support enforcement agency of this state or another state, except as provided by other law.

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(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 state office of vital records to issue an amended birth certificate.

14-2-823. Binding effect of determination of parentage.

(a) Except as otherwise provided in subsection (b) of this section, a determination of parentage is binding on:

(i) All signatories to an acknowledgement or denial of paternity as provided in article 5 of this act; and

(ii) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of W.S. 20-4-142.

(b) A child is not bound by a determination of parentage under this act unless:

(i) The determination was based on an unrescinded acknowledgment of paternity and the acknowledgement is consistent with the results of genetic testing;

(ii) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

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(iii) The child was a party or was represented in the proceeding determining parentage by an attorney representing the child's best interest.

(c) 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 W.S. 20-4-142, and the final order:

(i) 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

(ii) Provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(d) 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.

(e) A party to an adjudication of paternity may challenge the adjudication only under the laws of this state relating to appeal, vacation of judgments or other judicial review.

ARTICLE 9
CHILD OF ASSISTED REPRODUCTION

14-2-901. Scope of article.

This article does not apply to the birth of a child conceived by means of sexual intercourse.

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14-2-902. Parental status of donor.

A donor is not a parent of a child conceived by means of assisted reproduction.

14-2-903. Paternity of child of assisted reproduction.

A man who provides sperm for, or consents to, assisted reproduction by a woman as provided in W.S. 14-2-904, with the intent to be the parent of her child, is the parent of the resulting child.

14-2-904. Consent to assisted reproduction.

(a) Consent by a woman and a man who intends to be the parent of a child born to the woman by assisted reproduction shall be in a record signed by the woman and the man. This requirement shall 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 if the woman and the man, during the first two (2) years of the child's life resided together in the same household with the child and openly held out the child as their own.

14-2-905. Limitation on husband's dispute of paternity.

(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:

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(i) Within two (2) years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(ii) 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:

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

(ii) The husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

(iii) 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.

14-2-906. Effect of dissolution of marriage or withdrawal of consent.

(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.

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(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.

14-2-907. Parental status of deceased individual.

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.

Section 2. W.S. 1-16-102(c), 1-16-103(a), 1-16-301(b), 1-16-307(b), 1-16-308(b), 1-16-309(b), 2-4-107(a)(iii), 14-3-402(a)(xiii), 14-6-201(a)(xvii), 14-6-402(a)(xiv), 20-1-113, 20-2-201(a)(intro), 20-4-142(a)(vii), 20-4-185(b), 20-6-104(a)(viii), 26-15-135(a)(iii), 35-1-411 and 35-1-417(a)(ii), by amending and renumbering (c) as (b), by amending and renumbering (e) as (c), by renumbering (b) as (e) and (f) are amended to read:

1-16-102. Interest on judgments.

(c) A periodic payment or installment for child support or maintenance which is unpaid on the date due and which on or after July 1, 1990, becomes a judgment by operation of law pursuant to W.S. ~~14-2-113,~~ 14-2-204, ~~20-2-113 or 20-4-120,~~ shall not bear interest.

1-16-103. Penalty assessed on unpaid judgment by operation of law.

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(a) As used in this section "judgment by operation of law" means a periodic payment or installment for child support or maintenance which is unpaid on the date due and which has become a judgment by operation of law pursuant to W.S. ~~14-2-113, 14-2-204, 20-2-113 or 20-4-123.~~

1-16-301. Judgments and orders to be entered in journal; recordation where real property affected.

(b) No entry will be made in the journal relating to a judgment by operation of law arising under W.S. ~~14-2-113 or 14-2-204.~~

1-16-307. Index to judgments.

(b) No index shall be made of a judgment by operation of law arising under W.S. ~~14-2-113 or 14-2-204.~~

1-16-308. Release of satisfied judgment; requirement.

(b) Subsection (a) of this section does not apply to judgments arising by operation of law under W.S. ~~14-2-113 or 14-2-204.~~

1-16-309. Release of satisfied judgment; liability for failure.

(b) Subsection (a) of this section does not apply to judgments by operation of law arising under W.S. ~~14-2-113, 14-2-204, 20-2-113 or 20-4-123.~~

2-4-107. Determination of relationship of parent and child.

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(a) If for purposes of intestate succession, a relationship of parent and child shall be established to determine succession by, through or from a person:

(iii) In cases not covered by paragraph (i) of this subsection, a person born out of wedlock is a child of the mother. That person is also a child of the father, if the relationship of parent and child has been established under the Uniform Parentage Act, W.S. ~~14-2-101~~14-2-401 through ~~14-2-120~~14-2-907.

14-3-402. Definitions.

(a) As used in this act:

(xiii) "Parent" means either a natural or adoptive parent of the child, a person adjudged the parent of the child in judicial proceedings or a man presumed to be the father under W.S. ~~14-2-102~~14-2-504;

14-6-201. Definitions; short title; statement of purpose and interpretation.

(a) As used in this act:

(xvii) "Parent" means either a natural or adoptive parent of the child, a person adjudged the parent of the child in judicial proceedings or a man presumed to be the father under W.S. ~~14-2-102~~14-2-504;

14-6-402. Definitions.

(a) As used in this act:

(xiv) "Parent" means either a natural or adoptive parent of the child, a person adjudged the parent

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of the child in judicial proceedings or a man presumed to be the father under W.S. ~~14-2-102~~ 14-2-504;

20-1-113. Legitimacy of children presumed.

The legitimacy of all children conceived or born during the marriage is rebuttably presumed pursuant to W.S. ~~14-2-102(a)~~ 14-2-504.

20-2-201. Disposition and maintenance of children in decree or order; access to records.

(a) In granting a divorce, separation or annulment of a marriage or upon the establishment of paternity pursuant to W.S. ~~14-2-101~~ 14-4-401 through ~~14-2-120~~ 14-2-907, the court may make by decree or order any disposition of the children that appears most expedient and in the best interests of the children. In determining the best interests of the child, the court shall consider, but is not limited to, the following factors:

20-4-142. Basis for jurisdiction over nonresident.

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

(vii) The individual asserted parentage in this state pursuant to W.S. ~~14-2-101~~ 14-2-401 through ~~14-2-120~~ 14-2-907;

20-4-185. Proceeding to determine parentage.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the

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provisions of W.S. ~~14-2-101~~14-4-401 through ~~14-2-120~~14-2-907 and the rules of this state on choice of law.

20-6-104. Child support enforcement services generally.

(a) The services in intrastate and interstate situations provided under the child support enforcement program subject to or by appropriate orders of the court shall include:

(viii) The establishment of paternity for out of wedlock children pursuant to W.S. ~~14-2-101~~14-4-401 et seq.

26-15-135. Coverage of children.

(a) No insurance company, multi-employer trust or other provider of an individual, group or blanket health insurance product in this state shall:

(iii) Refuse to provide medical insurance coverage for an otherwise insurable child under the policy if the child for whom the claim is made is presumed to be the natural child of the insured under W.S. ~~14-2-102~~14-2-504 or ~~14-2-104~~14-2-822.

35-1-411. Name of father on birth certificate.

(a) If the mother was married either at the time of conception or birth of child, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction; ~~in which case the name of the father as determined by the court shall be entered.~~ or

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(ii) The husband signs an affidavit denying that he is the father and the mother and the person to be named as the father sign an affidavit of paternity under this section. Affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. The name of the person signing the affidavit of paternity shall be entered as the father on the certificate of birth.

(b) If the mother was not married either at the time of conception or birth of child, or between conception and birth, the name of the father shall not be entered on the certificate of birth without ~~the written consent of the mother~~ an affidavit of paternity signed by the mother and the person to be named as father, unless a determination of the paternity has been made by a court of competent jurisdiction. ~~in which case the name of the father as determined by the court shall be entered.~~

(c) In any case in which paternity of a child ~~born out of wedlock,~~ the certificate shall be filed directly with the state registrar of vital records. Either of the parents of the child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon in time to permit its filing within the ten (10) days prescribed above is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) ~~If the mother was not married at the time of conception or birth, the child's surname on the birth certificate shall be the same as the legal surname of the mother at the time of birth unless an affidavit of acknowledgment of paternity signed by both parents is~~

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~~received stating the surname of the child to be that of the father.~~ If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

35-1-417. New certificate of birth following adoption; legitimation; court determination of paternity; and paternity acknowledgment.

(a) The state registrar of vital records shall establish a new certificate of birth for a person born in this state when he receives the following:

(ii) A request that a new certificate be established and such evidence as required by regulation proving such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of such person.

~~(e)(b)~~ When a new certificate of birth is established, the actual ~~place~~ city and county and date of birth shall be shown. It shall be substituted for the original certificate of birth. If a new certificate of birth is issued under this section, and in the case of adoptions, the original certificate of birth and evidence of adoption shall not be subject to inspection except upon order of a court of competent jurisdiction.

~~(e)(c)~~ Upon receipt of ~~notice of an~~ a decree of annulment of adoption, the original certificate of birth shall be restored to its place in the file and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

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~~(b)~~ (e) The state registrar of vital records shall establish a new certificate of birth, on a form he prescribes, for a person born in a foreign country upon receipt of a certified copy of the decree of adoption entered pursuant to W.S. 1-22-111(a)(iii) and a request for a new certificate by the court decreeing the adoption, the adoptive parents or the adopted person.

(f) If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed certificate of birth shall be filed with the state registrar of vital records as provided by this act, before a new certificate of birth is established. ~~The new certificate shall be prepared as provided by paragraph (a)(i) of this section. If a new certificate of birth is established by the state registrar of vital records, all copies of the original certificate of birth in the custody of any custodian in the state shall be sealed from inspection or forwarded to the state registrar as he directs.~~

Section 3. W.S. 14-2-101 through 14-2-120 and 35-1-417(d) and (g) are repealed.

Section 4. A proceeding to adjudicate parentage under W.S. 14-2-401 et seq. which was commenced prior to July 1, 2003 shall be governed by the law in effect at the time the proceeding was commenced.

ORIGINAL SENATE
FILE NO. 0029

ENROLLED ACT NO. 40, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

Section 5. This act is effective July 1, 2003.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk