

State of New York  
Unified Court System



Lawrence K. Marks  
Chief Administrative Judge

25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100

February 11, 2021

TO: Hon. George J. Silver  
Hon. Vito C. Caruso

FROM: Lawrence K. Marks *LM*

SUBJECT: Uniform Forms for Use in Family Court

The attached Administrative Order (Exhibit A), effective February 15, 2021, promulgates five new forms, attached as Exhibit B, for use in Family Court.

The forms, designed to implement the *Child and Parent Security Act* [Laws of 2020, chapter 56, Part L], include templates for petitions and orders for parentage proceedings regarding children conceived as a result of assisted reproduction or surrogacy agreements, as well as a summons form for use in these cases. A summary of the new statute is attached as Exhibit C.

These forms will be distributed electronically and will be posted on the Unified Court System CourtNet intranet web-site, as well as its internet web-site ([www.nycourts.gov](http://www.nycourts.gov)). Questions about the forms may be directed to Janet Fink, Deputy Counsel ([jfink@nycourts.gov](mailto:jfink@nycourts.gov)).

cc.: Administrative Judges  
Hon. Jeanette Ruiz  
Hon. Jeffrey Sunshine  
Family Court Judges  
John W. McConnell  
Nancy Barry  
Scott Murphy  
Linda Dunlap Miller  
District Executives  
Family Court Chief Clerks  
Family Court Support Magistrates  
Eileen Millett  
Janet Fink

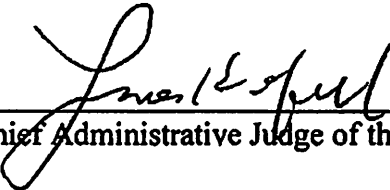
## **EXHIBIT A**

**ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE**

Pursuant to section 214 of the Family Court Act and section 212 of the Judiciary Law, I hereby prescribe the following four forms for use in Family Court proceedings in the courts of the State of New York:

**Parentage Forms [Family Court Act Article 5-C]**

Form 5-C-1	Petition (Surrogacy Agreement)
Form 5-C-2	Order (Surrogacy Agreement)
Form 5-C-3	Petition (Assisted Reproduction)
Form 5-C-4	Order (Assisted Reproduction)
Form 5-C-5	Summons (Surrogacy Agreement or Assisted Reproduction)

  
\_\_\_\_\_  
Chief Administrative Judge of the Courts

Dated: February 11, 2021

AO/057/2021

**EXHIBIT B**

F.C.A. Art. 5-C

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF .....

In the Matter of a Parentage Proceeding Concerning

[Child's name]:

A child conceived as a result of a Surrogacy Agreement

Parentage Form 5-C-1  
(Parentage Petition-  
Surrogacy Agreement)  
(1/2021)

Petitioner(s)  
.....

Family File No.  
Docket No.  
PARENTAGE PETITION-  
SURROGACY AGREEMENT

TO THE FAMILY COURT:

The undersigned Petitioner(s) respectfully allege(s) that:

1. [check applicable box]: ☐ I am ☐ We are the intended parent(s) of a child,

[specify name of child or, if not yet born, expected name if known of child]: , who

a. ☐ was born on [specify date]: [check applicable box if known]:  
and is a ☐ male ☐ female ☐ non-binary/other. The child resides in [specify county]:

b. ☐ is expected to be born on or about [specify date]: . The  
child upon birth, is expected to reside in [specify county]:

2. a. The following person is acting as the surrogate (gestating parent) for the child:

Name:
Date of Birth:
Address:

- b. [Delete if inapplicable]: The person acting as surrogate is married to [specify name]:

3. The person acting as the surrogate knowingly and voluntarily executed a surrogacy agreement with ☐ me ☐ us on [specify date]:  
A copy of the agreement is annexed to this Petition.

4. ☐ I am ☐ We are submitting this petition to request an order declaring the following:

Name:	Name:
Date of Birth:	Date of Birth:
Address <sup>1</sup> :	Address: <sup>2</sup>

to be the legal parent(s) of the child.

5. a. At the time that the surrogacy agreement was executed, the following intended parent(s) had resided in New York State for at least six months:

b. [If applicable]: At the time that the surrogacy agreement was executed, the following intended parent had not resided in New York State for at least six months:

- c. At the time that the surrogacy agreement was executed, the person acting as a surrogate  
☐ had ☐ had not resided in New York for at least six months.

6. The following attorneys, representing the intended parent(s) and the person acting as surrogate, have certified that the surrogacy agreement complies with Part 4 of Article 5-C of the Family Court Act:

Copies of the attorneys' certifications are annexed to this Petition.

7. Annexed to this petition is/are (a) statement(s) from all parties to the surrogacy agreement that they knowingly and voluntarily entered into the surrogacy agreement and that they are jointly requesting a judgment of parentage.

8. Upon information and belief,  
 a. no individual has been adjudicated as a parent of this child, either in this court, or any other court, including a Native-American court; (except) [specify]:  
 b. no individual has signed an Acknowledgment of Parentage admitting parentage of this child, (except) [specify]:

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<sup>1</sup> Unless ordered confidential pursuant to Family Court Act § 154-b because disclosure would pose an unreasonable risk to the health or safety of the petitioner. See forms GF-21 and 21a, available at [www.nycourts.gov](http://www.nycourts.gov).

<sup>2</sup> Unless ordered confidential pursuant to Family Court Act § 154-b because disclosure would pose an unreasonable risk to the health or safety of the petitioner. See forms GF-21 and 21a, available at [www.nycourts.gov](http://www.nycourts.gov).

9. Upon information and belief, the subject child ☐ is ☐ is not a Native American child who may be subject to the *Indian Child Welfare Act of 1978* (25 U.S.C. §§ 1901-1963).

10. No previous application has been made to any court or judge for the relief herein requested (except [specify]:

WHEREFORE, I am requesting that this Court issue a judgment and declaration of parentage, an order that the person acting as surrogate is not a legal parent and such other and further relief as may be appropriate under the circumstances.

\_\_\_\_\_  
Petitioner #1

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Attorney, if any

\_\_\_\_\_  
Attorney's Name (Print or Type)

\_\_\_\_\_  
Attorney's Address and Telephone Number

Dated: \_\_\_\_\_, .

#### VERIFICATION

STATE OF NEW YORK    )  
  ): ss.:  
COUNTY OF                )

\_\_\_\_\_ being duly sworn, says that (s)he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

Sworn to before me this  
day of , .

\_\_\_\_\_  
Petitioner #1: NAME

\_\_\_\_\_  
(Deputy) Clerk of the Court  
Notary Public

\_\_\_\_\_  
Petitioner #2

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Attorney, if any

\_\_\_\_\_  
Attorney's Name (Print or Type)

\_\_\_\_\_  
Attorney's Address and Telephone Number

Dated: , .

### VERIFICATION

STATE OF NEW YORK )  
 ) : ss.:  
COUNTY OF )

\_\_\_\_\_ being duly sworn, says that (s)he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

\_\_\_\_\_  
Petitioner #2: NAME

Sworn to before me this  
day of , .

\_\_\_\_\_  
(Deputy) Clerk of the Court



F.C.A. Art. 5-C

Form 5-C-2  
(Parentage Order-  
Surrogacy Agreement)  
(1/2021)

At a term of the Family Court of  
the State of New York, held in and  
for the County of \_\_\_\_\_,  
at \_\_\_\_\_ New York  
on \_\_\_\_\_.

.....  
In the Matter of a Parentage Proceeding Concerning

[Child's name]:

A child conceived as a result of a Surrogacy Agreement

Petitioner(s)

Family File No.  
Docket No.  
ORDER OF PARENTAGE -  
SURROGACY AGREEMENT

.....  
**NOTICE: IF YOU WERE NOT IN COURT FOR THE HEARING AND THIS ORDER WAS  
ISSUED ON DEFAULT, YOU MAY OBJECT OR CHALLENGE THE ORDER BY FILING A  
MOTION TO VACATE THE ORDER.**

**IF YOU WERE IN COURT FOR THE HEARING AND THIS ORDER IS ENTERED BY A  
JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM  
THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY  
APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR  
THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE  
ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.**

**IF YOU WERE IN COURT FOR THE HEARING AND THIS ORDER IS ENTERED BY A  
SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE  
FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN  
COURT OR BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL,  
WITHIN 35 DAYS OF THE MAILING OF THE ORDER.**

The above-named Petitioner(s) having filed a petition, sworn to on [specify date]:  
, \_\_\_\_\_, alleging that [specify]: \_\_\_\_\_ is/are the intended  
parent(s) of [specify name of child or, if not yet born, expected name if known of child]:

**[Applicable to a child already born]:** ☐ The child, who was born on [specify date]:

is a [check box if known]: ☐ male ☐ female ☐ non-binary/other.

OR

**[Applicable where child has not yet been born]:** ☐ The child, who is expected to be born on or about: [insert due date] ,

The following person [specify name]: ☐has acted ☐is acting as a surrogate for the child.

The intended parent(s) and the person acting as a surrogate having executed a surrogacy agreement on [date]:

The petition was brought by [specify]::

☐ Intended parent [specify]:

☐ Intended parent [specify]:

☐ Other [specify]:

The following additional individuals having been notified and having [specify]:  
☐ appeared ☐ not appeared to answer the petition [specify]:

And the following parties [specify]: ☐ having  
☐ contested ☐ not contested the allegations of the petition; and

The issues having duly come on to be heard before this Court,

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto, the Court finds and determines the following to be true:

The person acting as surrogate became pregnant in conjunction with a surrogacy agreement;

The residency requirement was satisfied as follows:

☐ The intended parent(s) had been (a) resident(s) of New York State for at least six months at the time that the surrogacy agreement was executed;

OR

☐ At least one of the intended parents had been a resident of New York State for at least six months at the time that the surrogacy agreement was executed and the person acting as surrogate had been a resident of New York State for at least six months at the time that the surrogacy agreement was executed;

A certification was submitted by the attorneys for the intended parents and the person acting as surrogate attesting that the requirements of Part 4 of Article 5-C regarding the surrogacy agreement have been satisfied;

The intended parents and the person acting as surrogate knowingly and voluntarily entered into

the surrogacy agreement;

**[Applicable to a child already born]:** ☐ IT IS, THEREFORE, ORDERED AND ADJUDGED that [specify name(s)]: \_\_\_\_\_ is/are the legal parent(s) of [child's name]: \_\_\_\_\_ and the parent(s) shall forthwith assume responsibility for the child's maintenance and support;

OR

**[Applicable where child has not yet been born]:** ☐ IT IS, THEREFORE, ORDERED AND ADJUDGED that upon the child's birth, [specify name(s)]: \_\_\_\_\_ will be the legal parent(s) of the child who is expected to be born on [due date] \_\_\_\_\_, and upon the birth of such child, shall immediately assume responsibility for the child's maintenance and support and further that, within seven days of the child's birth, the intended parent(s) shall provide to this Court notification thereof, together with such other facts as may assist in identifying the birth record of the child whose parentage is in issue in this proceeding;

IT IS FURTHER ADJUDGED AND DECLARED that [specify the person acting as surrogate]: \_\_\_\_\_ is not a legal parent to the child and the spouse, if any, of the person acting as surrogate [specify]: \_\_\_\_\_ is not a parent to the child;

IT IS FURTHER ORDERED that [specify the person acting as surrogate] \_\_\_\_\_ and the spouse, if any, of the person acting as surrogate [specify]: \_\_\_\_\_ shall transfer the child to the intended parent(s) if this has not already occurred;

IT IS FURTHER ORDERED AND ADJUDGED that [specify known donor, if any]: \_\_\_\_\_ is not a legal parent to the child and the spouse of the known donor, if any [specify]: \_\_\_\_\_ is not a parent to the child;

IT IS FURTHER ORDERED THAT:

(i) Pursuant to Judiciary Law §254, the Clerk of the Court shall transmit to the State Commissioner of Health, or for a person born in New York City, to the Commissioner Of Health of The City of New York, on a form prescribed by the Commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose parentage was in issue and, if such person whose parentage has been determined is under eighteen years of age, the clerk shall also transmit forthwith to the registry operated by the Department Of Social Services, pursuant to Social Services Law §372-c, a notification of such determination; and

(ii) Pursuant to Public Health Law §4138 and NYC Public Health Code § 207.05, upon receipt of a judgment of parentage, the local registrar where a child is born shall report the parentage of the child to the appropriate department of health in conformity with this Order. If an original birth certificate has already been issued, the appropriate department of health shall amend the birth certificate in an expedited manner and seal the previously issued birth certificate except that it may be rendered accessible to the child at eighteen years of age or to the child's legal

parent or parents.

[Check box if applicable]: ☐ IT IS FURTHER ORDERED THAT [specify]:

.

ENTER

---

Judge of the Family Court/Support Magistrate

Dated: \_\_\_\_\_,

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed ]: \_\_\_\_\_

☐ Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_

F.C.A. Art. 5-C

Form 5-C-3  
(Parentage Petition- Assisted Reproduction)  
(1/2021)

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF

.....  
In the Matter of a Parentage Proceeding Concerning

[Child's name]:

A child conceived as a result of Assisted Reproduction

Family File No.  
Docket No.  
PARENTAGE PETITION-  
ASSISTED REPRODUCTION

Petitioner(s)

.....  
TO THE FAMILY COURT:

The undersigned Petitioner respectfully alleges that:

1. [check applicable box(es)]:
  - a. Petitioner #1: I am the [check one]:
    - ☐ Gestating or pregnant parent:
    - ☐ Other intended parent
    - ☐ Gamete or embryo donor
    - ☐ Child:
    - ☐ Representative of child:
    - ☐ Representative of deceased or incapacitated individual:
    - ☐ Social services official or government agency
    - ☐ Other individual with claim to parentage [specify]:
  - b. [Delete if inapplicable]: Petitioner #2: I am the [check one]:
    - ☐ Gestating or pregnant parent:
    - ☐ Other intended parent
    - ☐ Gamete or embryo donor
    - ☐ Child:
    - ☐ Representative of child:
    - ☐ Representative of deceased or incapacitated individual:
    - ☐ Social services official or government agency
    - ☐ Other individual with claim to parentage [specify]:
2. The child [specify name or, if not yet born, expected name if known of child]:

a. ☐ was born on [specify date]: [check applicable box if known]:  
and is a ☐ male ☐ female ☐ non-binary/other. The child resides in [specify county]:

b. ☐ is expected to be born on or about [specify date]: . The  
child upon birth, is expected to reside in [specify county]:

3. ☐ I am ☐ We are submitting this petition to request an order declaring the following to be  
the legal parent(s) of the child:

Name:	Name:
Date of Birth:	Date of Birth:
Address <sup>1</sup> :	Address: <sup>2</sup>

4. The other intended parent and I both consented to assisted reproduction on the basis of the  
following record and/or evidence [See attached consent(s) and check applicable box(es) below]:

☐ In the case of a known gamete or embryo donor,  
☐ a record from the donor, signed by both the donor and the gestating parents, indicating  
that the donor has no parental or proprietary interest in the gamete or embryo, is attached hereto;  
OR :  
☐ the following constitutes clear and convincing evidence that that the donor has no parental  
or proprietary interest in the gamete or embryo [specify evidence]:

☐ In the case of an anonymous embryo or gamete donor or embryo or gamete released to  
storage facility or healthcare practitioner,  
☐ statement or documentation from the storage facility or healthcare practitioner that the  
embryo or gamete was donated anonymously or previously released to the facility or practitioner is  
attached hereto;

OR

☐ the following constitutes clear and convincing evidence that the donor intended the  
donation to be anonymous or previously released the embryo or gamete to a storage facility or  
healthcare practitioner [specify evidence]:

5. [Check applicable box]:

---

<sup>1</sup> Unless ordered confidential pursuant to Family Court Act § 154-b because disclosure would pose an  
unreasonable risk to the health or safety of the petitioner. See forms GF-21 and 21a, available at  
[www.nycourts.gov](http://www.nycourts.gov).

<sup>2</sup> Unless ordered confidential pursuant to Family Court Act § 154-b because disclosure would pose an  
unreasonable risk to the health or safety of the petitioner. See forms GF-21 and 21a, available at  
[www.nycourts.gov](http://www.nycourts.gov).

a. ☐ I OR ☐ other gestating intended parent [specify]: \_\_\_\_\_ gave birth to  
 [specify name of child]: \_\_\_\_\_,  
 a ☐ male ☐ female child on [specify date]: \_\_\_\_\_

OR

b. ☐ I OR ☐ other gestating intended parent [specify]: \_\_\_\_\_ is now pregnant  
 with a child who is likely to be born within 90 days of the filing of this Petition.

6. [Check box, if applicable; if not, SKIP to ¶7]: ☐ I am requesting an order for genetic testing to determine the parentage of the child.

7. [Check applicable box(es), if any; if not, SKIP to ¶8]:

Petitioner #1: I ☐ have ☐ have not acknowledged parentage on the Public Health Law form.

Petitioner #2: I ☐ have ☐ have not acknowledged parentage on the Public Health Law form.

Respondent ☐ has ☐ has not acknowledged parentage on the Public Health Law form.

8. Upon information and belief, no individual has been adjudicated as a parent of this child, either in this court, or any other court, including a Native-American court; and no individual has signed an Acknowledgment of Parentage admitting parentage for this child, (except) [specify]:

9. Upon information and belief, the subject child ☐ is ☐ is not a Native American child who may be subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

10. No previous application has been made to any court or judge for the relief herein requested (except [specify]):

WHEREFORE, I am requesting that this Court issue a judgment and declaration of parentage, an order that the embryo or gamete donor is not a legal parent and such other and further relief as may be appropriate under the circumstances.

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 Print or type name

\_\_\_\_\_  
 Signature of Attorney, if any

\_\_\_\_\_  
 Attorney's Name (Print or Type)

\_\_\_\_\_  
 Attorney's Address and Telephone Number

Dated: , .

# VERIFICATION

STATE OF NEW YORK )  
 ) ss.:  
 COUNTY OF )

\_\_\_\_\_ being duly sworn, says that (s)he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

\_\_\_\_\_  
 Petitioner

Sworn to before me this  
 day of , .

\_\_\_\_\_  
 (Deputy) Clerk of the Court  
 Notary Public



F.C.A. Art. 5-C

Form 5-C-4  
(Parentage Order-  
Assisted Reproduction)  
(1/2021)

At a term of the Family Court of  
the State of New York, held in and  
for the County of \_\_\_\_\_,  
at \_\_\_\_\_ New York  
on \_\_\_\_\_.

.....  
In the Matter of a Parentage Proceeding Concerning

[Child's name]:

A child conceived as a result of Assisted Reproduction

Petitioner(s)

Family File No.  
Docket No.  
ORDER OF PARENTAGE -  
ASSISTED REPRODUCTION

.....  
**NOTICE: IF YOU WERE NOT IN COURT FOR THE HEARING AND THIS ORDER WAS  
ISSUED ON DEFAULT, YOU MAY OBJECT OR CHALLENGE THE ORDER BY FILING A  
MOTION TO VACATE THE ORDER.**

**IF YOU WERE IN COURT FOR THE HEARING AND THIS ORDER IS ENTERED BY A  
JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM  
THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY  
APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR  
THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE  
ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.**

**IF YOU WERE IN COURT FOR THE HEARING AND THIS ORDER IS ENTERED BY A  
SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE  
FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN  
COURT OR BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL,  
WITHIN 35 DAYS OF THE MAILING OF THE ORDER.**

The above-named Petitioner(s) having filed a petition, sworn to on \_\_\_\_\_,  
alleging that [specify]: \_\_\_\_\_ is/are the intended parent(s) of \_\_\_\_\_.

[specify name of child or, if not yet born, expected name if known of child]:

**[Applicable to a child already born]:** ☐ who was born on [specify date]:  
is a [check box if known]: ☐ male ☐ female ☐ non-binary/other.

OR

**[Applicable where child has not yet been born]:** ☐ who is expected to be born on or about: [insert due date] ; and

The child's conception was accomplished through assisted reproduction; and

The petitioner(s) is/are [specify]:

- ☐ Gestating parent:
- ☐ Other intended parent
- ☐ Gamete or embryo donor
- ☐ Child [specify]:
- ☐ Representative of child [specify]:
- ☐ Representative of deceased or incapacitated individual [specify]:
- ☐ Social services official or gov't. agency
- ☐ Other individual with claim to parentage [specify]:

The following additional individuals having been notified and having [specify]:  
☐ appeared ☐ not appeared to answer the petition [specify]:

And the following parties [specify]: having  
☐ contested ☐ not contested the allegations of the petition; and

The issues having duly come on to be heard before this Court,

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto, the Court finds:

- ☐ The gestating parent became pregnant as a result of assisted reproduction;
- ☐ The residency requirement was satisfied as follows:
  - ☐ An intended parent has been a resident of New York for at least six months;
  - ☐ The child ☐ was ☐ will be born in New York within 90 days of filing of the petition;
- ☐ In the case of a gestating intended parent and a non-gestating intended parent, the Court received a statement from both intended parents that the non-gestating intended parent consented to assisted reproduction;

**[Applicable to a known gamete or embryo donor]:**

☐ the Court received a record signed by both the donor and the gestating parent(s), indicating that the donor has no parental or proprietary interest in the gamete or embryo;

OR

☐ the Court found by clear and convincing evidence that that the donor has no parental or proprietary interest in the gamete or embryo;

**[Applicable to an anonymous embryo or gamete donor or embryo or gamete released to a storage facility or healthcare practitioner]:**

☐ the Court received a statement or documentation from the storage facility or healthcare practitioner that the embryo or gamete was donated anonymously or previously released to the facility or practitioner;

OR

☐ the Court found by clear and convincing evidence that the donor intended the donation to be anonymous or previously released the embryo or gamete to a storage facility or healthcare practitioner;

**[Applicable to a child already born]:** ☐ IT IS, THEREFORE, ORDERED AND ADJUDGED that [parent's name] is the legal parent of [child's name]:  
, a child born on [date of birth]: , and the parent(s) shall forthwith assume responsibility for the child's maintenance and support;

OR

**[Applicable where child has not yet been born]:** ☐ IT IS, THEREFORE, ADJUDGED AND DECLARED that upon the child's birth, [parent's name] will be the legal parent of the child who is expected to be born on [due date] , and upon the birth of such child, shall immediately assume responsibility for the child's maintenance and support and further that, within seven days of the child's birth, the intended parent(s) shall provide to this Court notification thereof, together with such other facts as may assist in identifying the birth record of the child whose parentage is in issue in this proceeding;;

**[Applicable where there was a known donor]:** AND IT IS FURTHER ORDERED AND ADJUDGED that [specify known donor]: is not a parent of the child.

IT IS FURTHER ORDERED THAT:

(i) Pursuant to Judiciary Law §254, the Clerk of the Court shall transmit to the State Commissioner Of Health, or for a person born in New York City, to the Commissioner Of Health Of The City of New York, on a form prescribed by the Commissioner, a written notification of such entry together with such other facts as may assist in identifying the birth record of the person whose parentage was in issue and, if such person whose parentage has been determined is under eighteen years of age, the clerk shall also transmit forthwith to the registry operated by the Department Of Social Services, pursuant to Social Services Law §372-c, a notification of such determination; and

(ii) Pursuant to Public Health Law §4138 and NYC Public Health Code § 207.05, upon receipt of a judgment of parentage, the local registrar where a child is born shall report the parentage of the child to the appropriate department of health in conformity with this Order. If an original

birth certificate has already been issued, the appropriate department of health shall amend the birth certificate in an expedited manner and seal the previously issued birth certificate except that it may be rendered accessible to the child at eighteen years of age or to the child's legal parent or parents.

[Check box if applicable]: ☐ IT IS FURTHER ORDERED THAT [specify]:

.

ENTER

\_\_\_\_\_  
Judge of the Family Court/Support Magistrate

Dated: \_\_\_\_\_,

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed ]: \_\_\_\_\_

☐ Order received in court on [specify date(s) and to whom given]: \_\_\_\_\_

F.C.A. Art. 5-C

Parentage Form 5-C-5  
 Summons – Assisted  
 Reproduction or Surrogacy)  
 (1/2021)

FAMILY COURT OF THE STATE OF NEW YORK  
 COUNTY OF

.....  
 In the Matter of a Parentage Proceeding Concerning

[Child's name]:

Family File No.  
 Docket No.

A child conceived as a result of

☒ Surrogacy Agreement   ☒ Assisted Reproduction

# SUMMONS - PARENTAGE

Petitioner(s)

.....  
 NOTICE: YOUR FAILURE TO APPEAR SHALL RESULT IN AN ENTRY OF AN ORDER OF  
 PARENTAGE ON DEFAULT UPON PROOF THAT YOU RECEIVED ACTUAL NOTICE OF THE  
 COMMENCEMENT OF THIS PROCEEDING.<sup>1</sup>

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO

\_\_\_\_\_, who resides or is found at:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (A Petition)(Petitions) under Article 5-C of the Family Court Act having been filed with this  
 Court and annexed hereto

YOU ARE HEREBY SUMMONED to appear before this court at \_\_\_\_\_  
 \_\_\_\_\_, New York, on \_\_\_\_\_,  
 at \_\_\_\_ o'clock in the \_\_\_\_ noon of that day to show cause why the declaration of parentage,  
 judgment of parentage and other and further relief requested in the petition should not be made.

Dated: \_\_\_\_\_, \_\_\_\_\_ . \_\_\_\_\_  
 Clerk of the Court

## **EXHIBIT C**

## **Parentage Proceedings Under the *Child and Parent Security Act***

In conjunction with the New York State budget for Fiscal Year 2020-2021, the Legislature passed the *Child and Parent Security Act*, which, for the first time, legalizes gestational surrogacy agreements in which the surrogate has not contributed genetic material. It further delineates procedures for establishing parentage for children conceived either as a result of such agreements or through assisted reproduction. See Laws of 2020, chapter 56, Part L (effective Feb. 15, 2021). Suggested forms for use in these proceedings will shortly be posted on the web-site of the New York State Unified Court System, [[www.nycourts.gov](http://www.nycourts.gov)]. The following is a summary of the key provisions of the Act.

### **1. Parentage Proceedings** [Family Court Act Article 5-C]

The new statute contains a new Article 5-C of the Family Court Act, which sets forth a judicial procedure, governed by the Civil Practice Law and Rules, for establishing parentage in cases involving assisted reproduction except those in which “a person acting as a surrogate contributed the egg used in conception.” [FCA §§581-101, 581-201(a)]. The petition, which must be verified, may be brought by the child, a parent, a person claiming parentage, a social services agency, a person representing a minor or disabled person, or a “participant” (intended parent, surrogate, spouse of intended parent or surrogate or contributor of a gamete). [FCA §581-201(c)]. The petition may be brought in Supreme, Family or Surrogate’s Court, which may then exercise “exclusive, continuing jurisdiction” until the child reaches 180 days old. [FCA §581-206]. While intended parents need not be married, spouses of intended parents may obtain parentage judgments. [FCA §581-204]. A parentage judgment may be made prior to, but does not take effect until, the child’s birth [FCA §201(b)]. Notice of a parentage order must be sent to the NYS Department of Health or, where the child is born in New York City, the NYC Department of Health. [FCA §§581-202(g), 581-203(d)]. While the records of the court proceedings must be kept sealed, the parties and child have a right to inspect and copy the record and copies may be made available the NYS Office of Temporary and Disability Assistance, a Title IV-D child support agency in another state and local Support Collection Units to the extent necessary for the provision of child support services. [FCA §581-205].

(a). Assisted reproduction: The Court must find parentage of an intended parent if the following allegations are determined by the court to be true: (1) the intended parent is a New York resident or, if not, that the child was or will be born in New York within 90 days of filing; (2) if the intended parent is gestating, that the pregnancy resulted from assisted reproduction; (3) if the intended parent is non-gestating, a statement from both the gestating and non-gestating intended parent that the latter consented to assisted reproduction; and (4) proof that a donor does not intend to be a parent [FCA §581-202(c)]. Where the donor is anonymous, the donor’s intent may be demonstrated by a statement from the gamete storage facility or healthcare practitioner or by clear and convincing evidence of intent to be anonymous, or, where the donor is known, the donor’s intent may be demonstrated by a statement signed by the donor and gestating parent confirming that the donor “has no parental or proprietary interest in the gametes or embryos” or by providing the donor with at least 20 days prior notice of the proceeding [FCA §§581-202(d), 581-202(e)].

(b). Surrogacy Agreements: A parentage petition in a surrogacy agreement case may be brought any time after execution of the surrogacy agreement and must include allegations: (i) by the intended parents and surrogate that at least one of them has been a New York resident for at least six months and attesting to their knowing and voluntary consent to the agreement and request for a parentage judgment, and (ii) by the attorneys for all parties that

the requirements for surrogacy agreements set forth in Part 4 of the article have been satisfied. [FCA §581-203( c)]. If the attorneys' statements do not indicate full compliance, the Court may enforce the agreement if it finds "substantial compliance," or may adjudicate parentage in accordance with the child's "best interests." [FCA §581-203( e), 581-407]. The petition, which must be verified, may be brought by the child, a parent, a person claiming parentage, a social services agency, a person representing a minor or disabled person, or a "participant" (intended parent, surrogate, spouse of intended parent or surrogate or contributor of a gamete). [FCA §§581-203( e), 581-407].

A person may be eligible to act as a surrogate if she: (i) is at least 21 years of age, (ii) is a United States citizen or lawful permanent resident, (iii) is a New York resident for at least six months, if one of the intended parents is not a NYS resident, (iv) has not provided the egg for conception, (v) has completed a medical evaluation by a licensed health practitioner, (vi) has given informed consent after being informed of medical risks, (vii) has been represented by independent legal counsel, along with her spouse, if applicable, (viii) has or will obtain comprehensive medical insurance and life insurance policies that take effect prior to taking medication or beginning any embryo transfers, and (ix) any other criteria deemed appropriate by the Commissioner of Health [FCA §581-402(a)]. The surrogate's spouse must also provide informed consent unless they have lived apart for three years or have lived apart pursuant to an order, judgment or separation agreement acknowledged in the manner of a deed. [FCA §581-403(a)(2)].

At least one intended parent in a surrogacy agreement must be a United States citizen or lawful permanent resident and a New York resident for at least six months. Intended parents must be represented by independent legal counsel. An intended parent may be a single adult or, if a couple, may be married or in an intimate relationship. An intended parent may execute a surrogacy agreement without his or her spouse if they have lived apart for three years or if they have been separated pursuant to an order, judgment or separation agreement acknowledged in the manner of a deed. [FCA §581-402(b)]. If the intended parents are providing compensation, the funds must be placed in escrow and the agreement must also delineate how medical expenses will be covered [FCA §§581-403(f), 581-403(g)].

The surrogacy agreement must include, *inter alia*, an acknowledgment that the surrogate has received a copy of the "Surrogate's Bill of Rights," as set forth in Part 6 of FCA Article 5-c, and must provide that the surrogate has the right to make all health and welfare decisions regarding the pregnancy, to utilize medical personnel of her choosing, to be represented by independent legal counsel paid for by the intended parents and to provide or be provided with comprehensive health and life insurance policies. [FCA §§581-403(h), 581-602, 581-603, 581-604], ]. It must also provide that the intended parent or parents must assume custody and responsibility for support of all children resulting from the pregnancy, responsibilities that are not assignable, and it must obligate them to execute a will prior to the embryo transfer delineating a guardian for all such children . *Id.* The agreement may be terminated on notice by the surrogate or the intended parent or parents prior to any pregnancy resulting from the embryo transfer [FCA §§581-405, 581-607].

While disputes regarding parentage may be adjudicated in Family, Surrogate's or Supreme Court, other disputes regarding surrogacy agreements may be adjudicated only in Supreme Court. The Court has discretion to utilize conferencing or mediation "at any point in the proceedings." While no specific performance remedy is available for a breach of a surrogacy agreement, all other "remedies available at law or equity." [FCA §581-409].



(c). Agreements regarding assisted reproduction: Written embryo disposition agreements between intended parents with joint dispositional control require that the parties were advised by independent legal counsel and, where the intended parents had been married, are binding upon divorce. An intended parent transferring rights to an embryo is deemed not to be a parent for any purpose, unless consenting to be a parent; such consent may be withdrawn [FCA §581-306]. If an intended parent transferring rights dies before transfer of eggs, embryos or sperm, the deceased person is not deemed a parent unless indicated in a written consent. [FCA §581-307]

(d). Compensation of donors and surrogates: As set forth in Part 5 of FCA Article 5-C, any compensation must be reasonable, must be negotiated in good faith, must not be contingent upon any characteristics of the child or children born as a result of the pregnancy and must not be paid for the “purchase of any gametes or embryos or for the release of any parental interest in a child.” Compensation may cover the period of pregnancy and a recuperative period of up to eight weeks. Compensation to donors in assisted reproduction may include economic losses resulting from the retrieval or storage of the gametes and may cover only storage fees, transportation costs and attorneys’ fees. [FCA §§581-501, 581-502].

## **2. Additional Family Court Act amendments:**

a. Support Magistrates in Family Court: Family Court Act §439(a) is amended to make clear that, just as Support Magistrates have authority to adjudicate paternity matters, other than those involving custody, visitation or equitable estoppel, so, too, they have authority to adjudicate parentage under the new Article 5-c of the Family Court Act, with the exception of cases involving surrogacy agreements that do not conform to the statutory requirements and thus must be adjudicated in accordance with the child's best interests pursuant to FCA §581-407.

b. Acknowledgment of Parentage and parentage references: Family Court Act §516-a is expanded to provide for “acknowledgments of parentage,” instead of “acknowledgments of paternity,” and to permit them to be signed by “intended parents.” Such acknowledgments will be deemed “void” as of the time of signing if an individual other than the signatory is a presumed or adjudicated parent or has signed a valid acknowledgment of parentage, or where the signatory was a gamete donor under FCA §581-302 or represented falsely that the child was a result of assisted reproduction. [FCA §516-a( c)]. All references to “acknowledgments of paternity” in any law are deemed to refer to “acknowledgments of parentage.” [FCA §516-a(f)]. Conforming amendments are made to refer to substitute “parentage” for “paternity” in FCA §§440 and 1017.

3. Domestic Relations Law amendments: DRL §73 is repealed, Part 8 is renamed “Genetic Surrogate Parenting Contracts” and DRL §121 is amended to make clear that genetic surrogacy agreements – those involving a surrogate who is genetically related to the child or children resulting from the pregnancy – remain contrary to public policy in New York.

## **4. Public Health Law amendments**

a. Acknowledgments of Parentage: Sections 4135 and 4135-b of the Public Health Law are amended to substitute “alleged” for “putative” father and “acknowledgment of parentage” for “acknowledgment of paternity.” All references to “acknowledgments of paternity” are deemed to refer to “acknowledgments of parentage.” [Public Health Law §4135-b(6)]. Significantly, as in Family Court Act §516-a, *supra*, intended parents and “alleged genetic

parents,” including those involved in assisted reproduction pursuant to Family Court Act §581-303, will be able to sign voluntary acknowledgments of parentage, thus immediately assuming the status of legal parents, assuming that they are “readily identifiable and available.” All existing provisions regarding acknowledgments of paternity are made applicable to these new acknowledgments of parentage. However, such acknowledgments will be deemed “void” if an individual other than the signatory is a presumed or adjudicated parent or has signed a valid acknowledgment of parentage, or where the signatory was a gamete donor under FCA §581-302 or represented falsely that the child was a result of assisted reproduction. [Public Health Law §4135-b(1)(d)]. Acknowledgments must be filed, as applicable, with the NYS Department of Health or NYC Health Department, and full faith and credit must be accorded to acknowledgments of parentage executed in another state if they are signed records and comply with the laws of the other state. [Public Health Law §§4135-b(3), 4135-b(4)]. A new form Acknowledgment of Parentage (LDSS-5171) has been promulgated by the NYS Office of Temporary and Disability Assistance.

b. Gestational Surrogacy [Article 25-B]: A new section 2599-cc is added to the Public Health Law delineating regulations that the Department of Health is required to promulgate regarding gestational surrogacy. The regulations must include, but are not limited to, provisions requiring notice to surrogates of possible health risks as part of the process of obtaining informed consent, dissemination and posting of informational material, establishment of a voluntary registry of surrogates and tracking of information regarding surrogacy, protocols regarding medical screening of surrogates in consultation with the American College of Obstetricians and Gynecologists, and protocols aimed at reducing conflicts of interest. Confidentiality of information regarding surrogates must be assured. Additionally, a new subdivision four is added to Public Health Law §4365 requiring promulgation of regulations, in consultation with the Transplant Council and professional medical organizations, regarding egg donations.

5. Social Services Law amendments: Sections 111-c, 111-k and 372-c of the Social Services Law are amended to substitute “parentage” for references to “paternity.” SSL §111-k(2)(a) is amended to provide that parties in contested parentage proceedings may not be required to submit to genetic testing if a court has found that, *inter alia*, the child was conceived through assisted reproduction.

6. Regulation of Surrogacy Programs and Assisted Reproduction Service Providers [General Business Law Article 44]: A new Article 44 is added to the General Business Law to regulate surrogacy programs and assisted reproduction gamete banks, fertility clinics or other entities doing business in New York State, as well as surrogates residing in New York State and medical procedures performed in the State. It sets forth escrow requirements regarding funds, as well as conflicts of interests prohibitions regarding health care providers and attorneys representing intended and surrogate parents. [General Business Law §§1401, 1402, 1403]. In addition to submitting an annual report to the Legislature, the NYS Department of Health, in conjunction with the NYS Department of Financial Services, must promulgate regulations that provide, *inter alia*, for the surrogacy programs to monitor compliance with the surrogacy agreement requirements and for surrogacy programs and assisted reproduction providers to administer Department of Health informed consent procedures. [General Business Law §1404].

7. Insurance Law: Provisions have been added to sections 1113, 2105 of the Insurance Law with respect to indemnification of an intended parent for expenses arising out of certain acts by or death of a surrogate or for medical or hospital expenses as a result of complications

experienced by a donor as a result of the gamete donation. Donor medical expense insurance is added to the list of "non-basic kinds of insurance." [Insurance Law §§4101 and 4103].

8. Estates, Powers and Trusts Law: Section 4-1.2 of the EPTL is amended to provide that non-marital child is a legitimate child of, and may inherit from, a non-gestating intended parent, where the intended parent signed an acknowledgment of parentage, where parentage was adjudicated during the intended parent's lifetime or where it is adjudicated by clear and convincing evidence based upon a genetic marker test or by the parent "openly and notoriously" acknowledging the child during his or her lifetime. Additionally, section 4-1.3 of the EPTL is amended to expand the reach of the existing provisions regarding inheritance by children conceived after the death of a genetic parent to also cover inheritance after the death of an "intended parent," as defined in FCA §581-101. Express consent must be in a written instrument executed not more than seven years prior to the intended person's death and that if the assisted reproduction occurred after the intended parent's death, the child was *in utero* no later than 24 months after the death or was born no later than 33 months after the death. If the intended person would be a genetic parent, the instrument must designate a person to make decisions regarding the genetic material. A template for the written instrument is set forth in subdivision (d) of the statute.

Effective: February 15, 2021