Guidance Checklist

VS41 Contract Not Approved by the Court – Surrogate Consent and Report Form

The *VS41 form, Contract Not Approved by the Court – Surrogate Consent and Report Form*, is used to establish a new birth certificate for a child born in the Commonwealth via assisted conception, when (i) the intended parent(s) and surrogate/Gestational Mother and/or their spouse (if applicable) enter into a surrogacy agreement using a contract that has not been approved by a court; and (ii) at least one intended parent is genetically related to the child or has legal/contractual custody of the embryo used and which resulted in assisted conception.

For information clarifying the documentation to be submitted along with the VS41 form, and for requirements followed when signing to terminate parental rights, see § 32.1-162 of the Code of Virginia. Additional information related to surrogacies may be found in Chapter 9 (§ 20-156 et seq.) of Title 20 of the Code of Virginia, and Chapter 7 (32.1-249 et seq.) of Title 32.1 of the Code of Virginia. The VDH cannot provide or recommend legal counsel, or otherwise assist in the completion and execution of surrogacy contracts.

IMPORTANT: All documentation must be completed and filed with the State Registrar within 180 days of the child's birth. Submissions post-marked 180 days after the child's birth, or submissions which remain incomplete 180 days after from the child's birth will not be processed. VDH forms must be completed using black unfading ink. Applicants and attorneys are encouraged to review form requirements for completion as outlined in 12VAC5-550-150 of the Regulations Governing Vital Records.

** The Secretary of the Commonwealth oversees notarial acts and requirements in the Commonwealth. For more information on Virginia notaries, e-notarization and RON service requirements, or to access the Virginia Notary Handbook, visit Secretary of the Commonwealth - Notaries Public Virginia. For jurisdictions outside of Virginia, please reference the jurisdiction's notary requirements as published by the respective state or foreign government. To adhere to 12VAC5-550-150 (Requirements for Completion), the VDH Office of Vital Records is unable to accept notarizations with strikethroughs, erasures, or which have otherwise been altered.

General Guidance		
Done	**Task**	**Tips**
☐	Use full legal names when completing form for present legal name and name at birth.	Lisa Jane Smith (name at birth) Lisa Jane Brown (present legal name)
☐	Consistency in use of names across all form field items and signatures.	Input and sign full present legal name – Lisa Jane Brown
☐	Check ONLY ONE box next to "Intended Parent I" or "Intended Mother" and "Intended Parent II" or "Intended Father" on page 4. Intended Parent I and II are gender neutral terms.	Check Intended Parent I **OR** Intended Mother. Check Intended Parent II **OR** Intended Father.
☐	Use names designated as Intended Parent I/Intended Mother and Intended Parent II/Intended Father across all pages of the form.	Lisa Jane Brown as Intended Parent I/Mother and William James Brown as Intended Parent II/father across all form pages.
☐	Dates may be entered as **MM/DD/YYYY** or as **Month, Day, Year**.	03/16/2024 or March 16, 2024
☐	Do not alter or reformat the form or existing form language.	Additional requirements for form acceptance may be found in 12VAC5-550-150.
☐	Do not erase, strikethrough, white-out, or otherwise alter information input on the form.	
☐	Use black, unfading ink to complete and sign the form.	
☐	Ensure to use the form currently in use (effective 02/2025).	The form's effective date is located in the bottom left corner of each form page.
☐	Ensure all applicable pages are completed, signed, and notarized as indicated in the form packet.	The Gestational Mother's Spouse may or may not need to complete and sign sections of the form depending on if the spouse was party to the surrogacy contract.
☐	Notarization**	For documents with more than one signature, separate notary stamps will be required for each signature.

Page 3 – Contract Not Approved by the Court – Surrogate Consent and Report Form		
Part 1 - Child		
Done	**Item**	**Input**
☐	Full Name at Birth	Child's full legal name at birth
☐	SSN (Social Security Number)	Child's social security number (if known)
☐	Sex	Child's sex designation at the time of birth.
☐	Date of Birth	Child's date of birth.
☐	Place of Birth	Child's U.S. state or foreign country of birth.
Part 2 – Surrogate/Gestational Mother		
Done	**Item**	**Input**
☐	Full Name at Birth	Surrogate/Gestational Mother's full legal name at birth.
☐	SSN (Social Security Number)	Surrogate/Gestational Mother's social security number (if known).
☐	Present Legal Name	Surrogate/Gestational Mother's present full legal name.
☐	Date of Birth	Surrogate/Gestational Mother's date of birth.
☐	Place of Birth	Surrogate/Gestational Mother's U.S. state or foreign country of birth.
☐	Race or Color	Surrogate/Gestational Mother's race or color.
☐	Place of Residence	Surrogate/Gestational Mother's current street address, city, state, and zip code.
Part 3 – Surrogate/Gestational Mother's Spouse		
Done	**Item**	**Input**
☐	Full Name at Birth	Surrogate/Gestational Mother's Spouses' full legal name at birth.
☐	SSN (Social Security Number)	Surrogate/Gestational Mother's Spouses' social security number (if known).
☐	Present Legal Name	Surrogate/Gestational Mother's Spouses' present full legal name.
☐	Date of Birth	Surrogate/Gestational Mother's Spouses' date of birth.
☐	Place of Birth	Surrogate/Gestational Mother's Spouses' U.S. state or foreign country of birth.
☐	Race or Color	Surrogate/Gestational Mother's Spouses' race or color.
☐	Place of Residence	Surrogate/Gestational Mother's Spouses' current street address, city, state, and zip code.
Part 4 – Intended Parent I or Intended Mother		
Done	**Item**	**Input**
☐	Check Box – Intended Parent I OR Intended Mother*	Check only one box for Intended Parent OR Intended Mother. Intended Parent I is a gender neutral option.

Done	Item	Input
☐	Full Name at Birth	Intended Parent I/Intended Mother's full legal name at birth.
☐	SSN (Social Security Number)	Intended Parent I/Intended Mother's social security number (if known).
☐	Present Legal Name	Intended Parent I/Intended Mother's present full legal name.
☐	Date of Birth	Intended Parent I/Intended Mother's date of birth.
☐	Place of Birth	Intended Parent I/Intended Mother's U.S. state or foreign country of birth.
☐	Race or Color	Intended Parent I/Intended Mother's race or color.
☐	Place of Residence	Intended Parent I/Intended Mother's current street address, city, state, and zip code.
Part 5 – Intended Parent II or Intended Father		
Done	**Item**	**Input**
☐	Check Box – Intended Parent II OR Intended Father*	Check only one box for Intended Parent II **OR** Intended Father. Intended Parent II is a gender neutral option.
☐	Full Name at Birth	Intended Parent II/Intended Father's full legal name at birth.
☐	SSN (Social Security Number)	Intended Parent II/Intended Father's social security number (if known).
☐	Present Legal Name	Intended Parent II/Intended Father's present full legal name.
☐	Date of Birth	Intended Parent II/Intended Father's date of birth.
☐	Place of Birth	Intended Parent II/Intended Father's U.S. state or foreign country of birth.
☐	Race or Color	Intended Parent II/Intended Father's race or color.
☐	Place of Residence	Intended Parent II/Intended Father's current street address, city, state, and zip code.

Page 4 – Affidavit of Physician Performing Assisted Conception		
Done	**Item**	**Input**
☐	Name of Physician	Full legal name of physician who performed the medical procedure for assisted conception which resulted in the birth of the child.
☐	(#1) State	Name of the U.S. state in which the physician who performed the medical procedure for assisted conception which resulted in the birth of the child is licensed.
☐	(#2) Medical Specialty	Medical specialty of the physician who performed the medical procedure for assisted conception which resulted in the birth of the child.
☐	(#3) Address of Facility	Physical address of the facility in which the medical procedure for assisted conception which resulted in the birth of the child was performed.
☐	(#4) Names of gestational mother and intended parent(s); if applicable, gestational mother's spouse	Names of the gestational mother and, if party to the surrogacy contract, the gestational mother's spouse. Names of each intended parent.
☐	(#5) Name of Facility	Name of facility in which the medical procedure for assisted conception which resulted in the birth of the child was performed.
☐	(#6) Confirmation of Genetic Relationship	Genetic relationships of the child, the Gestational Mother, the Gestational Mother's Spouse, Intended Parent I/Intended Mother, Intended Parent II/Intended Father.
☐	Signature of Physician	To be signed by the physician who performed the medical procedure for assisted conception which resulted in the birth of the child, in the presence of a notary.
☐	Notarization (page 4) **	The remaining fields are to be completed by a notary. Ensure that the notary places a stamp or seal on the document in accordance with jurisdictional notary requirements.

Pages 5 & 6 – Surrogate/Gestational Mother Consent to Change Name and to Termination of Parental Rights (at least one intended parent is demonstrably a genetic parent or has legal custody of the embryo)		
IMPORTANT – *Only complete if at least one intended parent is a genetic parent of the child born of assisted conception or has legal/contractual custody of the embryo.*		
Done	**Item**	**Input**
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Male/Female	Child's designated sex at birth.
☐	Date of Birth	Child's date of birth.
☐	Name of Hospital	Name of hospital in which the child was born; or the location if not born in a hospital (e.g., name of birthing facility, address if a home birth).
☐	City/County	Commonwealth city or county where the child was born.
☐	Name of Child	Child's full legal name at birth.
☐	Name of Child	Child's full legal name at birth.
☐	Check Boxes – genetic provenance	Check the boxes indicating the genetic sources (sperm and eggs) of the child that were utilized along with intervening medical technology resulting in assisted conception.
☐	Intended Parent I/Intended Mother	Intended Parent I/Intended Mother's full legal name.
☐	Intended Parent II/Intended Father	Intended Parent II/Intended Father's full legal name.
☐	Gestational Mother's Spouse	Full legal name of the Gestational Mother's Spouse (if applicable).
☐	Name of Facility	Name of the facility where DNA testing was performed to determine the genetic relationship of the child.
☐	Address of Facility	Address of the facility where DNA testing was performed to determine the genetic relationship of the child.
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Name of Child	Child's full legal name at birth.
☐	Intended Parent I/Intended Mother	Full legal name of Intended Parent I/Intended Mother.
☐	Intended Parent II/Intended Father	Full legal name of Intended Parent II/Intended Father.
☐	Name of Child	Child's full legal name at birth.
☐	Name of Child	Child's full legal name at birth.
☐	Signature of Gestational Mother	To be signed by the Gestational Mother in the presence of a notary.
☐	Notarization (page 6)**	The remaining fields are to be completed by a notary. Ensure that the notary places a stamp or seal on the document in accordance with jurisdictional notary requirements.

Pages 7 & 8 – Surrogate/Gestational Mother Spouse Consent to Change of Name and to Termination of Parental Rights (at least one intended parent is demonstrably a genetic parent or has legal/contractual custody of the embryo)		
IMPORTANT – *Only complete if at least one intended parent is a genetic parent of the child born of assisted conception or has legal/contractual custody of the embryo AND the Gestational Mother's Spouse is a party to the surrogacy contract.*		
Done	**Item**	**Input**
☐	Gestational Mother's Spouse	Full legal name of the Gestational Mother's Spouse.
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Male/Female	Child's designated sex at birth.
☐	Date of Birth	Child's date of birth.
☐	Name of Hospital	Name of the hospital in which the child was born, or location if not born in hospital (e.g., name of birthing facility, address if a home birth).
☐	City/County	Commonwealth city or county where the child was born.
☐	Name of Child	Child's full legal name at birth.
☐	Name of Child	Child's full legal name at birth.
☐	Check Boxes – genetic provenance	Check the boxes indicating the genetic sources (sperm and eggs) of the child that were utilized along with intervening medical technology resulting in assisted conception.
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Intended Parent I/Intended Mother	Full legal name of Intended Parent I/Intended Mother.
☐	Intended Parent II/Intended Father	Full legal name of Intended Parent II/Intended Father.
☐	Gestational Mother	Full legal name of Gestational Mother.
☐	Name of Facility	Name of the facility where DNA testing was performed to determine the genetic relationship of the child.
☐	Address of Facility	Address of the facility where DNA testing was performed to determine the genetic relationship of the child.
☐	Gestational Mother's Spouse	Full legal name of the Gestational Mother's Spouse.
☐	Name of Child	Child's full legal name at birth.
☐	Name of Child	Child's full legal name at birth.
☐	Intended Parent I/Intended Mother	Full legal name of Intended Parent I/Intended Mother.

Done	Item	Input
☐	Intended Parent II/Intended Father	Full legal name of Intended Parent II/Intended Father.
☐	Name of Child	Child's full legal name at birth.
☐	Name of Child	Child's full legal name at birth.
☐	Signature of Gestational Mother's Spouse	To be signed by the Gestational Mother's Spouse in the presence of a notary.
☐	Notarization (page 8)**	The remaining fields are to be completed by a notary. Ensure that the notary places a stamp or seal on the document in accordance with jurisdictional notary requirements.

Pages 9, 10, & 11 – Amending Birth Certificate (Intended Parents, Gestational Mother, Gestational Mother's Spouse)		
Done	**Item**	**Input**
☐	Child's First, Middle, and Last Name on New Birth Certificate	Child's full name as it will appear on the new birth certificate.
☐	Intended Parent I/Intended Mother	Full legal name of Intended Parent I/Intended Mother.
☐	Intended Parent II/Intended Father	Full legal name of Intended Parent II/Intended Father.
☐	Child's First, Middle, and Last Name on New Birth Certificate	Child's full name as it will appear on the new birth certificate.
☐	First Name of Child	Child's legal first name as it will appear on the new birth certificate.
☐	Middle Name of Child	Child's legal middle name as it will appear on the new birth certificate.
☐	Last Name of Child	Child's legal last name as it will appear on the new birth certificate.
☐	Intended Parent I/Intended Mother's Full Name	Full current legal name of Intended Parent I/Intended Mother.
☐	Intended Parent I/Intended Mother's Full Name at Birth	Intended Parent I/Intended Mother's full legal name at birth.
☐	Intended Parent I/Intended Mother's Place of Birth	Intended Parent I/Intended Mother's place of birth (U.S. city/county/state OR Foreign country city/county or province/foreign country).
☐	Intended Parent I/Intended Mother's Date of Birth	Intended Parent I/Intended Mother's date of birth.
☐	Intended Parent I/Intended Mother's Race	Intended Parent I/Intended Mother's race.
☐	Intended Parent II/Intended Father's Full Name	Full current legal name of Intended Parent II/Intended Father.
☐	Intended Parent II/Intended Father's Full Name at Birth	Full legal name of Intended Parent II/Intended Father at birth.

☐	Intended Parent II/Intended Father's Place of Birth	Intended Parent II/Intended Father's place of birth (U.S. city/county/state OR Foreign country city/county or province/foreign country).
☐	Intended Parent II/Intended Father's Date of Birth	Intended Parent II/Intended Father's date of birth.
☐	Intended Parent II/Intended Father's Race	Intended Parent II/Intended Father's race.
☐	Child's First, Middle, and Last Name on New Birth Certificate	Child's full name as it will appear on the new birth certificate.
☐	Child's First, Middle, and Last Name on New Birth Certificate	Child's full name as it will appear on the new birth certificate.

Done	Item	Input
☐	Intended Parent II/Intended Father's Date of Birth	Intended Parent II/Intended Father's date of birth.
☐	Intended Parent II/Intended Father's Race	Intended Parent II/Intended Father's race.
☐	Name of Child on New Birth Certificate	Child's full legal name as it shall appear on the new birth certificate.
☐	Name of Child on New Birth Certificate	Child's full legal name as it shall appear on the new birth certificate.
☐	Signature of Intended Parent I/ Intended Mother	To be signed by Intended Parent I/Intended Mother in the presence of a notary.
☐	Address of Intended Parent I/ Intended Mother	Physical address at which the Intended Parent I/Intended Mother resides.
☐	Signature of Intended Parent II/ Intended Father	To be signed by Intended Parent II/Intended Father in the presence of a notary.
☐	Address of Intended Parent II/ Intended Father	Physical address at which the Intended Parent II/Intended Father resides.
☐	Notarization (page 10)**	The remaining fields **on page 10** are to be completed by a notary. Ensure that the notary places a stamp or seal on the document in accordance with jurisdictional notary requirements. A separate notarial stamp/seal is required for each intended parent's signature.
☐	Signature – Gestational Mother	To be signed by the Gestational Mother in the presence of a notary.
☐	Signature – Gestational Mother's Spouse	To be signed by the Gestational Mother's Spouse in the presence of a notary.
☐	Address of Gestational Mother	Physical address at which the Gestational Mother resides.
☐	Address of Gestational Mother's Spouse	physical address at which the Gestational Mother's Spouse resides.
☐	Notarization (page 11)**	The remaining fields **on page 11** are to be completed by a notary. Ensure that the notary places a stamp or seal on the document in accordance with jurisdictional notary requirements. A separate notarial stamp/seal is required for the Gestational Mother's signature and the Gestational Mother's Spouses' signature.