Regular Session, 2014

HOUSE BILL NO. 187

BY REPRESENTATIVES LOPINTO, ADAMS, ARNOLD, BADON, BERTHELOT, WESLEY BISHOP, BROADWATER, BROSSETT, DOVE, GAROFALO, HUNTER, JAMES, KLECKLEY, MORENO, SCHEXNAYDER, TALBOT, AND WOODRUFF AND SENATOR GARY SMITH

1	AN ACT
2	To amend and reenact R.S. 14:286(D), R.S. 40:34(B)(1)(a)(viii), (h)(v), (i), and (j), and R.S.
3	44:4.1(B)(26), to enact Chapter 1-C of Code Title IV of Code Book III of Title 9 of
4	the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:2718 through
5	2720.15, R.S. 14:286(E), and Part VII of Chapter 2 of Title 40 of the Louisiana
6	Revised Statutes of 1950, to be comprised of R.S. 40:93 through 97, and to repeal
7	R.S. 9:2713, relative to surrogacy; to provide for amendments to birth certificates;
8	to provide for definitions relative to surrogacy contracts; to provide for genetic
9	surrogacy contracts; to provide for the enforceability of gestational surrogacy
10	contracts; to provide for the parties to a gestational surrogacy contract; to provide for
11	contractual requirements for a gestational surrogacy contract; to provide for a
12	proceeding to approve a gestational surrogacy contract; to provide for the check of
13	the criminal records of the parties to a gestational surrogacy contract; to provide for
14	an order preceding embryo transfer relative to a gestational surrogacy contract; to
15	provide for matters relative to multiple attempts at in utero embryo transfer; to
16	provide for confidentiality of the proceedings relative to a gestational surrogacy
17	contract; to provide for continuing and exclusive jurisdiction to the proceedings
18	relative to a gestational surrogacy contract; to provide for the termination of a
19	gestational surrogacy contract by notice; to provide for remedies for the failure to
20	perform under a gestational surrogacy contract; to provide for the termination of a
21	gestational surrogacy contract and for the effects of divorce, nullity, and death on a
22	gestational surrogacy contract; to provide for the effect of a subsequent marriage of

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1	the gestational mother on a gestational surrogacy contract; to provide for a post-birth
2	order; to provide for DNA testing when the child is alleged not to be the child of the
3	intended parents; to provide for time limitations and finality; to prohibit certain acts
4	relative to a gestational surrogacy contract occurring on or after the effective date;
5	to provide for data collection; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. Chapter 1-C of Code Title IV of Code Book III of Title 9 of the
8	Louisiana Revised Statutes of 1950, comprised of R.S. 9:2718 through 2720.15, is hereby
9	enacted to read as follows:
10	CHAPTER 1-C. SURROGACY CONTRACTS
11	PART I. DEFINITIONS
12	<u>§2718. Definition of terms</u>
13	As used in this Chapter, the following terms shall have the meanings ascribed
14	to them in this Section unless otherwise provided for or unless the context otherwise
15	indicates:
16	(1) "Compensation" means a payment of money, objects, services, or
17	anything else having monetary value. Compensation shall not include
18	reimbursement of actual expenses, as provided for in R.S. 9:2720.5(B)(3), to the
19	gestational mother or payment for goods or services incurred by the intended parents
20	as a result of the pregnancy and that would not have been incurred but for the
21	pregnancy.
22	(2) "Gamete" means either a sperm or an egg.
23	(3) "Genetic surrogacy" means the process by which a woman attempts to
24	carry and give birth to a child using her own gametes and either the gametes of a
25	person who intends to parent the child or donor gametes, when there is an agreement
26	to relinquish the custody of and all rights and obligations to the child.
27	(4) "Gestational surrogacy" means the process by which a woman attempts
28	to carry and give birth to a child born as a result of in utero transfer of a human
29	embryo who has no genetic contribution from the gestational mother.

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1	(5) "Gestational mother" means a woman who agrees to engage in a
2	gestational surrogacy.
3	(6) "In utero embryo transfer" means the medical procedure whereby the
4	genetic mother's egg is fertilized with the sperm of the genetic father, with the
5	resulting embryo transferred into the uterus of the gestational mother.
6	(7) "Intended parents" means a man and a woman who are married to each
7	other in accordance with Louisiana law who contribute their gametes and who enter
8	into an enforceable gestational surrogacy contract, as defined in this Chapter, with
9	a gestational mother pursuant to which they will be the legal parents of the child
10	resulting from that assisted reproduction.
11	PART II. GENETIC SURROGACY
12	<u>§2719. Contract for genetic surrogacy; nullity</u>
13	A contract for genetic surrogacy shall be absolutely null.
14	PART III. GESTATIONAL SURROGACY
15	§2720. Enforceability of gestational surrogacy contract
16	A. In accordance with the requirements of this Part, an agreement to be
17	known as a gestational surrogacy contract is enforceable only if it is in writing and
18	signed by the gestational mother, her spouse if she is married, and both of the
19	intended parents.
20	B. A gestational surrogacy contract is enforceable only if approved by a
21	court in advance of in utero embryo transfer, and is in accordance with all of the
22	requirements of this Part.
23	C. No person shall enter into a gestational surrogacy contract for
24	compensation as defined in R.S. 9:2718 or that is not in compliance with all of the
25	requirements of this Part. Any such contract executed in the state of Louisiana or
26	any other state shall be absolutely null and unenforceable in the state of Louisiana
27	as contrary to public policy.
28	D. No person shall enter into a gestational surrogacy contract that requires
29	the gestational mother to consent to terminate a pregnancy resulting from in utero
30	embryo transfer for any reason, including a prenatal diagnosis of an actual or

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1	potential disability, impairment, genetic variation, or any other health condition or
2	a discrimination based on gender, or for the purposes of the reduction of multiple
3	fetuses. Any such provision in a contract executed in the state of Louisiana or any
4	other state shall be absolutely null and unenforceable in the state of Louisiana as
5	contrary to public policy.
6	§2720.1. Parties to a gestational surrogacy contract
7	A gestational mother shall, at the time the gestational surrogacy contract is
8	executed:
9	(1) Be at least twenty-five years of age, and no older than thirty-five years
10	<u>of age.</u>
11	(2) Have given birth to at least one child.
12	<u>§2720.2. Contractual requirements</u>
13	A. In an enforceable gestational surrogacy contract, the gestational mother
14	shall do all of the following:
15	(1) Agree to become pregnant by means of in utero embryo transfer, using
16	the gametes of the intended parents, and to give birth to the resulting child.
_	the gametes of the intended parents, and to give birth to the resulting child. (2) Agree to reasonable medical evaluation and treatment during the term of
16	
16 17	(2) Agree to reasonable medical evaluation and treatment during the term of
16 17 18	(2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health,
16 17 18 19	(2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the
16 17 18 19 20	(2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents.
 16 17 18 19 20 21 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has
 16 17 18 19 20 21 22 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has undergone at least two counseling sessions, separated by at least thirty days, with a
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 16 17 18 19 20 21 22 23 24 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has undergone at least two counseling sessions, separated by at least thirty days, with a licensed clinical social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor, to discuss the proposed surrogacy.
 16 17 18 19 20 21 22 23 24 25 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has undergone at least two counseling sessions, separated by at least thirty days, with a licensed clinical social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor, to discuss the proposed surrogacy. (4) Certify, along with her spouse if she is married, that she will relinquish
 16 17 18 19 20 21 22 23 24 25 26 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has undergone at least two counseling sessions, separated by at least thirty days, with a licensed clinical social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor, to discuss the proposed surrogacy. (4) Certify, along with her spouse if she is married, that she will relinquish all rights and duties as the parents of a child born as a result of in utero embryo
 16 17 18 19 20 21 22 23 24 25 26 27 	 (2) Agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases under R.S. 40:1299.96 in favor of the intended parents. (3) Certify that prior to executing the gestational surrogacy contract she has undergone at least two counseling sessions, separated by at least thirty days, with a licensed clinical social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor, to discuss the proposed surrogacy. (4) Certify, along with her spouse if she is married, that she will relinquish all rights and duties as the parents of a child born as a result of in utero embryo transfer.

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1	(1) Acknowledge that the gestational mother has sole authority with respect
2	to medical decision-making during the term of the pregnancy consistent with the
3	rights of a pregnant woman carrying her own biological child.
4	(2) Agree to accept custody of and to assume full parental rights and
5	responsibilities for the child immediately upon the child's birth, regardless of any
6	impairment of the child.
7	(3) Be recognized as the legal parents of the child.
8	C. The gestational surrogacy contract shall include a preliminary estimate
9	of anticipated expenses and their allocation in accordance with R.S. 9:2720.5.
10	§2720.3. Proceeding to approve surrogacy contract
11	A. Prior to in utero embryo transfer, the intended parents or the gestational
12	mother and her husband, if she is married, may initiate a summary proceeding in the
13	court exercising jurisdiction over the adoption of minors where the intended parents
14	or the gestational mother reside, seeking to have the court approve a gestational
15	surrogacy contract.
16	B. A proceeding to approve a gestational surrogacy contract shall be
17	maintained only if all of the following occur:
18	(1) The gestational mother and each of the intended parents have been
19	domiciled in this state for at least one hundred eighty days.
20	(2) The intended parents, the gestational mother, and her spouse, if she is
21	married, are all parties to the proceeding.
22	(3) A copy of the proposed gestational surrogacy contract is attached to the
23	motion.
24	(4) An independent board certified physician in obstetrics and gynecology
25	or in reproductive endocrinology, who has medically treated the intended mother over
26	a period of time such that the physician is competent to reach medical conclusions
27	about the intended mother's medical condition and submits a signed affidavit
28	certifying that in utero embryo transfer with a gestational mother is medically
29	necessary to assist in reproduction.

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1	(5) For purposes of this Section, "medically necessary" means that the
2	intended mother has been diagnosed to be infertile, or to have a physical condition
3	such that a pregnancy would create serious risk of death or substantial and
4	irreversible impairment of a major bodily function beyond the risk customary to
5	pregnancy and child birth.
6	<u>§2720.4.</u> Institution of records check
7	A. Upon the initiation of the summary proceeding, the court shall do all of
8	the following:
9	(1) Order and be entitled to the criminal history record and identification files
10	of the Louisiana Bureau of Criminal Identification and Information on each of the
11	intended parents and the gestational mother and her spouse, if she is married, as a
12	means of performing background checks on those individuals. The bureau shall,
13	upon request and after receipt of fingerprint cards and other identifying information
14	from the court, make available to the court information contained in the bureau's
15	criminal history record and identification files, which pertains to each of the intended
16	parents and the gestational mother and her spouse, if she is married. In addition, in
17	order to determine an applicant's suitability, the fingerprints shall be forwarded by
18	the bureau to the Federal Bureau of Investigation for a national criminal history
19	record check. The bureau shall charge a processing fee as provided in R.S.
20	<u>15:587(B)(1).</u>
21	(2) Order that the Department of Children and Family Services conduct a
22	records check for validated complaints of child abuse or neglect in this or any other
23	state in which either of the intended parents and the gestational mother and her
24	spouse, if she is married, has been domiciled since becoming a major.
25	(3) Order that the judicial administrator's office of the Louisiana Supreme
26	Court conduct a records check for court orders entered into the Louisiana Protective
27	Order Registry involving each of the intended parents and the gestational mother and
28	her spouse, if she is married.

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1	B. Each order shall state the full name, date of birth, social security number,
2	and former and current state of domicile since becoming a major of each subject of
3	the check.
4	C. The sheriff or the office of state police, Louisiana Bureau of Criminal
5	Identification and Information, the Department of Children and Family Services, and
6	the judicial administrator's office of the Louisiana Supreme Court shall accord
7	priority to these orders and shall provide a certificate to the court indicating all
8	information discovered, or that no information has been found.
9	<u>§2720.5. Order Preceding Embryo Transfer</u>
10	A. Within sixty days of the initiation of a proceeding to approve a gestational
11	surrogacy contract, the court shall set the matter for hearing, and after the hearing
12	may issue an order, known as the Order Preceding Embryo Transfer, approving the
13	gestational surrogacy contract and declaring that the intended parents shall be
14	recognized as the legal parents of a child born pursuant to the gestational surrogacy
15	contract.
16	B. The court shall issue an Order Preceding Embryo Transfer upon finding
17	that all of the following have occurred:
18	(1) The requirements of R.S. 9:2720-2720.3 have been satisfied and the
19	reports of criminal records, validated complaints of child abuse or neglect, and
20	Louisiana Protective Order Registry checks show that there is no risk of harm to the
21	child or the gestational mother.
22	(2) Provisions have been made for all reasonable healthcare and legal
23	expenses associated with the gestational surrogacy contract until the birth of the
24	child, including responsibility for those expenses if the contract is terminated.
25	(3) The gestational mother will receive no compensation other than:
26	(a) Actual medical expenses, including hospital, testing, nursing, midwifery,
27	pharmaceutical, travel, or other similar expenses, incurred by the gestational mother
28	for prenatal care and those medical and hospital expenses incurred incident to the
29	birth.

1	(b) Actual expenses incurred for mental health counseling services provided
2	to the gestational mother prior to the birth and up to six months after birth.
3	(c) Actual lost wages of the gestational mother, not covered under a
4	disability insurance policy, when bed rest has been prescribed for the gestational
5	mother for some maternal or fetal complication of pregnancy and the gestational
6	mother, who is employed, is unable to work during the prescribed period of bed rest.
7	(d) Actual travel costs related to the pregnancy and delivery, court costs, and
8	attorney fees incurred by the gestational mother.
9	(e) Payment of a judicially sanctioned settlement or judgment rendered in
10	favor of the gestational mother or her heirs as a result of her death, loss of
11	reproductive organs or capability, or any other health complication caused by the in
12	utero embryo transfer, pregnancy or resulting childbirth, miscarriage, or termination
13	of pregnancy.
14	(4) The parties understand the contract and freely give consent.
15	<u>§2720.6. Multiple embryo transfer attempts</u>
16	If there are multiple attempts at in utero embryo transfer, the gestational
17	surrogacy contract and the Order Preceding Embryo Transfer shall continue in full
18	force and effect in accordance with the parties' agreement until terminated under R.S.
19	9:2720.9 or 2720.11, or until a live birth occurs pursuant to the gestational surrogacy
20	<u>contract.</u>
21	<u>§2720.7. Confidentiality</u>
22	All proceedings governed by this Chapter shall be heard by the judge in
23	chambers or in a closed hearing, and no one shall be admitted to the hearings except
24	the parties in interest, their attorneys, and officers of the court. The court, in its
25	discretion, may grant the request of a petitioner to permit others to be present at the
26	hearing. The court records of these proceedings and the identities of the parties to
27	a gestational surrogacy contract shall be sealed and are subject to disclosure, release,
28	or inspection only upon application to the court and in conformity with the
29	applicable requirements of confidentiality applicable to adoptions in the Children's
30	Code.

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1	§2720.8. Continuing and exclusive jurisdiction
2	Subject to the jurisdictional requirements of the Uniform Child Custody
3	Jurisdiction and Enforcement Act, the court having jurisdiction over the proceeding
4	to approve a gestational surrogacy contract pursuant to this Part shall have exclusive.
5	continuing jurisdiction of all matters arising out of the gestational surrogacy contract.
6	§2720.9. Termination of contract by notice
7	A. Before each in utero embryo transfer, the gestational mother or either of
8	the intended parents may terminate the gestational surrogacy contract by filing a
9	motion with the court giving notice of termination and serving all other parties with
10	the motion. Upon filing of the motion, the court shall issue an order vacating the
11	Order Preceding Embryo Transfer.
12	B. Neither a gestational mother nor her spouse, if she is married, is liable to
13	the intended parents for terminating a gestational surrogacy contract pursuant to this
14	Section.
15	C. Absent timely notice of termination by an intended parent or the
16	gestational mother, no court shall terminate an enforceable gestational surrogacy
16 17	gestational mother, no court shall terminate an enforceable gestational surrogacy contract after issuance of a valid Order Preceding Embryo Transfer except for good
17	contract after issuance of a valid Order Preceding Embryo Transfer except for good
17 18	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy
17 18 19	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer.
17 18 19 20	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer. §2720.10. Remedies
17 18 19 20 21	 contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer. §2720.10. Remedies After in utero embryo transfer, a failure to perform under the gestational
17 18 19 20 21 22	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer. §2720.10. Remedies After in utero embryo transfer, a failure to perform under the gestational surrogacy contract does not give rise to the right to dissolution. The parties' rights
17 18 19 20 21 22 23	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer. §2720.10. Remedies After in utero embryo transfer, a failure to perform under the gestational surrogacy contract does not give rise to the right to dissolution. The parties' rights and responsibilities are otherwise governed by the rules of the Titles on Obligations
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 17 18 19 20 21 22 23 24 25 	contract after issuance of a valid Order Preceding Embryo Transfer except for good cause shown after a hearing. No court shall terminate a gestational surrogacy contract after a successful in utero embryo transfer. §2720.10. Remedies After in utero embryo transfer, a failure to perform under the gestational surrogacy contract does not give rise to the right to dissolution. The parties' rights and responsibilities are otherwise governed by the rules of the Titles on Obligations in General and Conventional Obligations or Contracts. §2720.11. Termination of contract and effects of divorce, nullity, death
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1	embryo transfer, the deceased individual is not a parent of the resulting child unless
2	the child was born within three years of the death of the decedent and the deceased
3	agreed in writing that if the in utero embryo transfer were to occur after death, the
4	deceased individual would be a parent of the child and that the child would have all
5	rights, including the capacity to inherit from the decedent.
6	<u>§2720.12. Effect of subsequent marriage</u>
7	After the issuance of an Order Preceding Embryo Transfer, subsequent
8	marriage of the gestational mother does not affect the validity of a gestational
9	surrogacy contract. The consent of the spouse is not required, and he is not a
10	presumed father of the resulting child, notwithstanding any legal presumption to the
11	contrary.
12	<u>§2720.13. Post-Birth Order</u>
13	A. Upon birth of a child to a gestational mother within three hundred days
14	after in utero embryo transfer, the intended parents or their successors, the
15	gestational mother, or her spouse shall file a motion requesting issuance of a
16	Post-Birth Order. The motion shall be accompanied by a certified copy of the child's
17	original birth certificate and an affidavit executed by the intended parents containing
18	an accounting of fees and charges paid or agreed to be paid by or on behalf of the
19	intended parents in connection with the gestational surrogacy contract.
20	B. If neither the intended parents, their successors, the gestational mother,
21	or her spouse file the motion described in Subsection A of this Section, the
22	Department of Children and Family Services may file a motion notifying the court
23	that a child has been born to the gestational mother within three hundred days after
24	in utero embryo transfer, and the court shall set the motion for hearing.
25	C. The court may order a hearing and, after finding that the parties have
26	complied with this Part, shall issue a Post-Birth Order:
27	(1) Confirming that the intended parents are the legal parents of the child and
28	are financially responsible for the child.
29	(2) If necessary, ordering that the child be surrendered to the intended
30	parents.

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1	(3) Directing that a new birth certificate be created and that the intended
2	parents be listed on the birth certificate as the parents of the child pursuant to R.S.
3	40:32 et seq., and that the original birth certificate be sealed and subject to release
4	or inspection only upon application to the court for good cause shown.
5	<u>§2720.14. DNA testing</u>
6	If the child is alleged not to be the child of the intended parents, supported
7	by a sworn affidavit alleging specific facts which either tend to prove or deny
8	filiation, the court shall order genetic testing to determine the parentage of the child.
9	If the court finds after a contradictory hearing that the child is the genetic child of the
10	gestational mother, the court shall issue an order recognizing her as a legal parent of
11	the child. If any party refuses to submit to such tests, the court may resolve the
12	question of filiation against such party or enforce its order if the rights of others and
13	the interests of justice so require.
14	<u>§2720.15. Finality; time limitations</u>
15	A. A party to the gestational surrogacy contract may bring an action to annul
16	a Post-Birth Order. However, except as otherwise provided in this Part, no action
17	to annul a Post-Birth Order may be brought except on the grounds of fraud or duress.
18	B. An action to annul a Post-Birth Order based upon a claim of fraud or
19	duress perpetrated by:
20	(1) Anyone other than an intended parent shall be brought within one year
21	from the date of the signing of the final decree or mailing of the notice of the
22	judgment when required.
23	(2) An intended parent shall be brought within two years from the date of the
24	signing of the final decree or mailing of the notice of the judgment when required.
25	Section 2. R.S. 40:34(B)(1)(a)(viii), (h)(v), (i), and (j) are hereby amended and
26	reenacted to read as follows:
27	§34. Vital records forms
28	* * *
29	B. The forms shall be printed and supplied or provided by electronic means
30	by the state registrar and the required contents are:

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1	(1) Contents of birth certificate. The certificate of birth shall contain, as a
2	minimum, the following items:
3	(a) Full name of child.
4	* * *
5	(viii) In the case of a child born of a surrogate birth parent who is related by
6	blood or affinity to a biological parent, as a result of an enforceable gestational
7	surrogacy contract, as provided in R.S. 9:2720, the surname of the child's biological
8	parents shall be the surname of the child.
9	* * *
10	(h)
11	* * *
12	(v) In the case of a child born of a surrogate birth parent who is related by
13	blood or affinity to a biological parent, as a result of an enforceable gestational
14	surrogacy contract, as provided in R.S. 9:2720, the full name of the biological parent
15	father who is proven to be the father by DNA testing shall be listed as the father.
16	(i) Maiden name of mother; however, if the child was born of a surrogate
17	birth parent who is related by blood or affinity to a biological parent, as a result of
18	an enforceable gestational surrogacy contract, as provided in R.S. 9:2720, the maiden
19	name of the biological parent mother who is proven to be the mother by DNA testing
20	shall be listed as the mother and the name of the surrogate birth parent is not
21	required.
22	(j) In the case of a child born of a surrogate birth parent who is related by
23	blood or affinity to a biological parent, as a result of an enforceable gestational
24	surrogacy contract, as provided in R.S. 9:2720, the biological parents proven to be
25	the mother and father by DNA testing shall be considered the parents of the child.
26	Section 3. R.S. 14:286(D) is hereby amended and reenacted and R.S. 14:286(E) is
27	hereby enacted to read as follows:
28	§286. Sale of minor children and other prohibited activities; penalties
29	* * *

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1	D.(1) It shall be unlawful for any person to enter into, induce, arrange,
2	procure, knowingly advertise for, or otherwise assist in a gestational surrogacy
3	contract, whether written or unwritten, that is not in compliance with the
4	requirements provided for in R.S. 9:2718, et seq.
5	(2) No person who is a party to, or acting on behalf of the parties to a
6	gestational surrogacy contract shall make or agree to make any disbursements in
7	connection with the gestational surrogacy contract other than the following:
8	(a) Payment of actual medical expenses, including hospital, testing, nursing,
9	midwifery, pharmaceutical, travel, or other similar expenses, incurred by the
10	gestational mother for prenatal care and those medical and hospital expenses
11	incurred incident to birth.
12	(b) Payment of actual expenses incurred for mental health counseling
13	services provided to the gestational mother prior to the birth and up to six months
14	after birth.
15	(c) Payment of actual lost wages of the gestational mother, not covered under
16	a disability insurance policy, when bed rest has been prescribed for the gestational
17	mother for some maternal or fetal complication of pregnancy and the gestational
18	mother, who is employed, is unable to work during the prescribed period of bed rest.
19	(d) Payment of actual travel costs related to the pregnancy and delivery,
20	court costs, and attorney fees incurred by the gestational mother.
21	(3) It shall be unlawful for any person to enter into, induce, arrange, procure,
22	knowingly advertise for, or otherwise assist in an agreement for genetic surrogacy,
23	with or without compensation, whether written or unwritten. For purposes of this
24	Section, "genetic surrogacy" and "compensation" shall have the same meaning as
25	defined in R.S. 9:2718.
26	(4) It shall be unlawful for any person to give or offer payment of money,
27	objects, services, or anything of monetary value to induce any gestational mother,
28	whether or not she is party to an enforceable or unenforceable agreement for genetic
29	surrogacy or gestational surrogacy contract, to consent to an abortion as defined in
30	<u>R.S. 40:1299.35.1.</u>

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1	$\underline{\text{D-E.}}$ A person convicted of violating any of the provisions of this Section
2	shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with
3	or without hard labor for not more than ten years, or both.
4	Section 4. Part VII of Chapter 2 of Title 40 of the Louisiana Revised Statutes of
5	1950, comprised of R.S. 40:93 through 97, is hereby enacted to read as follows:
6	PART VII. GESTATIONAL SURROGACY DATA COLLECTION
7	<u>§93. Gestational surrogacy data collection; purpose</u>
8	The purpose of this Part shall be the compilation of relevant maternal life and
9	health factors and data concerning gestational surrogacy to the extent that it is
10	authorized by law.
11	<u>§94. Forms for collection of data</u>
12	The state registrar shall prescribe forms for the collection of information and
13	statistics with respect to enforceable gestational surrogacy contracts. Such forms
14	shall require but not be limited to the following information:
15	(1) The age, marital status, and state and parish of domicile of the gestational
16	mother.
17	(2) The parish in which the in utero embryo transfer took place.
18	(3) The full name and address of the physician or physicians performing or
19	attending to the following phases of the gestational surrogacy:
20	(a) In utero embryo transfer.
21	(b) Prenatal and postnatal care.
22	(c) Birth.
23	(d) Miscarriage.
24	(e) Induced abortion.
25	(4) The age, marital status, and state and parish of domicile of the intended
26	mother and father.
27	(5) The medical reason necessitating the gestational surrogacy.
28	(6) The medical procedures employed in the birth, miscarriage, or
29	termination of pregnancy for medical emergency as provided by R.S. 40:1299.35.12.

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1	(7) The length and weight of the child born as a result of gestational
2	surrogacy.
3	(8) The length and weight of an unborn child miscarried after the initiation
4	of a gestational surrogacy.
5	(9) Other significant conditions or health complications of the unborn child
6	and gestational mother.
7	(10) The results of pathological examinations of any unborn child who died
8	as a result of pregnancy complications or termination incidental to a gestational
9	surrogacy.
10	<u>§95. Completion of forms; filing with vital records registry</u>
11	The physician performing the in utero embryo transfer or termination of the
12	pregnancy by birth, miscarriage, or abortion shall provide the information required
13	by the provisions of R.S. 40:94. Such completed forms shall be transmitted by the
14	physician to the vital records registry within fifteen days of the performance of the
15	medical procedures.
16	<u>§96. Failure to complete form; penalty</u>
17	The Department of Health and Hospitals shall promulgate by rule the penalty
18	for the failure to complete the forms as provided in R.S. 40:95.
19	<u>§97. Confidentiality</u>
20	The vital statistics records required by this Part and the identities of the
21	parties to a gestational surrogacy contract shall be confidential and shall not be
22	subject to disclosure, release, or inspection except upon application to a competent
23	court and in conformity with the applicable requirements of confidentiality
24	applicable to adoptions in the Children's Code. The reporting of the data for public
25	health purposes shall redact any identifying information and any public report shall
26	indicate patient numbers as assigned pursuant to rules promulgated by the
27	Department of Health and Hospitals.
28	Section 5. R.S. 44:4.1(B)(26) is hereby amended and reenacted to read as follows:
29	§4.1. Exceptions
30	* * *

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1	B. The legislature further recognizes that there exist exceptions, exemptions,
2	and limitations to the laws pertaining to public records throughout the revised
3	statutes and codes of this state. Therefore, the following exceptions, exemptions, and
4	limitations are hereby continued in effect by incorporation into this Chapter by
5	citation:
6	* * *
7	(26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, <u>94, 95,</u> 526, 528, 1007, 1098.8,
8	1232.7, 1299.6, 1299.35.10, 1299.44, 1299.85, 1299.87, 1300.14, 1300.54,
9	1379.1.1(D), 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018, 2019, 2020, 2106,
10	2109.1, 2138, 2532, 2845.1
11	* * *
12	Section 6. R.S. 9:2713 is hereby repealed in its entirety.
13	Section 7. The provisions of Section 3 of this Act shall not apply to contracts entered
14	into prior to the effective date of this Act.
15	Section 8. The Louisiana State Law Institute is hereby directed to prepare comments
16	to the provisions of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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