

Proposed law changes the definition of "genetic gestational carrier" to a woman who attempts to carry and give birth to a child using her own gametes and either the gametes of a person who intends to parent the child or donor gametes, when there is a contract to relinquish the custody of and all rights and obligations to the child.

Present law provides that no person shall enter into a gestational carrier contract for compensation or that is not in compliance with applicable provisions of present law and any such contract shall be absolutely null and unenforceable as contrary to public policy.

Present law provides that no person shall enter into a gestational carrier contract that requires the carrier to consent to terminate a pregnancy and any such provision shall be absolutely null and unenforceable as contrary to public policy.

Proposed law retains present law.

Present law requires a gestational carrier to certify that prior to executing the gestational carrier contract she has undergone at least two counseling sessions with certain mental health professionals, including a licensed counselor.

Proposed law changes "licensed counselor" to "licensed professional counselor" and otherwise retains present law.

Present law requires that the intended parents in an enforceable gestational carrier contract have a valid will or succession plan establishing custody for the child in the event both intended parents predecease the birth of the child.

Proposed law requires that the intended parents in an enforceable gestational carrier contract have a testament or authentic act naming a tutor for the child should both intended parents die before the birth of the child.

Present law provides that prior to in utero embryo transfer, the intended parents or the gestational carrier and her spouse may initiate a summary proceeding to have a court approve the gestational carrier contract.

Proposed law requires that the summary proceeding to approve the gestational carrier contract be initiated prior to the in utero embryo transfer by either the intended parents or gestational carrier and her spouse and otherwise retains present law.

Present law provides that a proceeding to approve a gestational carrier contract shall be maintained only if all of the following occur:

- (1) The gestational carrier and each of the intended parents have been domiciled in this state for at least 180 days.
- (2) The intended parents, the gestational carrier, and her spouse if she is married, are all parties to the proceeding.
- (3) A copy of the proposed gestational carrier contract is attached to the motion.
- (4) An independent physician who has treated the intended mother submits an affidavit

certifying that in utero embryo transfer is medically necessary. Present law further provides that "medically necessary" means that the intended mother is infertile or that pregnancy creates too great a health risk for the intended mother.

Proposed law removes the requirement that the intended mother must be certified infertile in order to enter into a gestational carrier contract. Further provides that a gestational carrier contract shall be approved by the court if all of the following occur:

- (1) The gestational carrier and each of the intended parents have been domiciled in this state for at least 180 days.
- (2) The intended parents, the gestational carrier, and her spouse if she is married, are all parties to the proceeding.
- (3) A copy of the proposed gestational carrier contract is attached to the motion.

Present law provides that the biological parents of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract shall be considered the parents of the child.

Proposed law retains present law.

Present law provides that a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract shall have the surname of the biological parents.

Proposed law retains present law.

Present law provides that the full name of the biological father shall be listed on the birth certificate of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract.

Proposed law retains present law.

Present law provides that the maiden name of the biological mother shall be listed as the mother on the birth certificate of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract.

Present law provides that in the case of a child born of a surrogate birth parent who is related by blood or affinity to a biological parent, the biological parents, proven to be so by DNA testing, shall be considered the parents of the child.

Proposed law deletes present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 9:2718, 2718.1(1) and (3), 2720(C) and (D), 2720.2(A)(3) and (B)(intro para) and (B)(4), 2720.3(A) and (B)(intro para), R.S. 40:34.1(B), 34.2(2)(d), 34.5(C), and 34.6; repeals R.S. 9:2720.3(B)(4) and (5) and R.S. 40:46.10)