
DIGEST

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HB 1141 Original

2026 Regular Session

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Abstract: Establishes the La. Family Building and Maternal Health Protection Act that provides for the regulation of gestational carrier agreements, contracts, eligibility requirements, licensing requirements, compensation, and mandatory counseling.

Title 9

Proposed law (R.S. 9:2718) provides for the La. Family Building and Maternal Health Protection Act and other short cites including "Family Building and Maternal Health Act" or "FBMHA".

Proposed law (R.S. 9:2719) provides for legislative findings and purpose.

Proposed law (R.S. 9:2720) defines (1) "assisted reproduction", (2) "compensation", (3) "donor", (4) "embryo", (5) "gamete", (6) "gestational carrier", (7) "gestational carrier agreement", (8) "gestational carrier's spouse", (9) "intended parent", (10) "licensed healthcare provider", (11) "licensed mental health professional", (12) "parentage order", (13) "reasonable expenses", (14) "gestational carrier agency", (15) "parents-agency enrollment agreement", (16) "carrier–agency engagement agreement", and (17) "agency-coordinated gestational carrier agreement".

Proposed law (R.S. 9:2720.1) establishes the requirements in order to be a gestational carrier.

Proposed law (R.S. 9:2720.1(C)) provides for circumstances in which a gestational carrier is a family member of an intended parent or intended parents.

Proposed law (R.S. 9:2720.2) requires all parties to the gestational carrier agreement attend mandatory counseling by a qualified licensed mental health professional at least two times a minimum of 30 days apart and requires certain discussions of the gestational carrier relationship and rights attributed to each party. At least one of those sessions is required to be conducted without the other parties. The counseling sessions are mandatory to effectuate the gestational carrier agreement.

Proposed law requires a written report by the licensed mental health professional and authorizes the LDH to promulgate forms regarding certifications that the required counseling occurred.

Proposed law (R.S. 9:2720.3) provides for the terms of the gestational carrier agreement and includes the required parties to the agreement.

Proposed law also includes a definition of "medically necessary".

Proposed law (R.S. 9:2720.4) establishes certain licensing requirements for a gestational carrier agency and provides for the validity of agreements made with a nonlicensed gestational carrier agency.

Proposed law (9:2720.5) requires that a licensed gestational carrier agency conduct extensive background and safety checks of the gestational carrier, the gestational carrier's spouse, and the intended parent or intended parents which includes a search through criminal records. The provision also provides for continuous checks in certain circumstances.

Proposed law also provides for a cause of action if the licensed gestational carrier agency does not properly perform the required background and safety checks.

Proposed law (9:2720.6) provides for a three contract structure which includes a (1) Parent-Agency Enrollment Agreement, (2) Carrier-Agency Engagement Agreement, and (3) Agency-Coordinated Gestational Carrier Agreement. The provision also provides for instances of conflicts among the agreements, screening standards, escrow obligations, fee disclosures, and conflicts of interests.

Proposed law provides for a direct cause of action against the agency and also provides for the advertising requirements for licensed gestational carriers.

Proposed law (R.S. 9:2720.7) establishes the requirements for an intended parent or intended parents which includes an examination of the financial capacity and relationship status.

Proposed law (R.S. 9:2720.8) provides for the form of the gestational carrier agreement.

Proposed law (R.S. 9:2720.9) prohibits termination of a pregnancy related to the gestational carrier agreement and renders any provision permitting any termination of the pregnancy absolutely null.

Proposed law (R.S. 9:2720.10) provides for the execution of the gestational carrier agreement.

Proposed law (R.S. 9:2720.11) provides for the enforceability of the gestational carrier agreement.

Proposed law (R.S. 9:2720.12) provides for the La. Administrative compliance certificate.

Proposed law (R.S. 9:2720.13 and 2720.14) provides for compensation for the gestational carrier which includes the following:

- (1) Payment of base compensation shall not be conditioned upon, reduced by reason of, or forfeited as a consequence of any of the following:
 - (a) Live birth or any specific pregnancy outcome.
 - (b) The health, appearance, genetic characteristics, or number of children born.
 - (c) The gestational carrier's agreement or refusal to undergo selective reduction or termination

of a pregnancy.

- (d) Surrender or relinquishment of the child to the intended parent or intended parents.
- (2) Compensation shall be disbursed to the gestational carrier before birth in accordance with the agreed payment schedule.
- (3) The gestational carrier shall not be required to pay any medical bills arising from the pregnancy, delivery, or postpartum care out of her own funds.
- (4) All costs shall be covered through the health insurance obtained through direct payment by the intended parent or intended parents or through escrow disbursement as specified in the agreement.
- (5) For a gestational carrier who has not previously served as a gestational carrier, the benchmark range for total compensation is \$50,000 to \$90,000 inclusive of base pay and all allowances, bonuses, and supplemental payments.
- (6) For a gestational carrier who has previously completed at least one gestational carrier arrangement, the benchmark range for total compensation is \$65,000 to \$110,000 reflecting the demonstrated experience, reliability, and reduced risk associated with a carrier who has successfully completed a prior arrangement.
- (7) Parties may negotiate compensation outside these ranges. However, compensation materially below the lower benchmark shall be considered a factor in evaluating whether the agreement was entered into freely and without coercion for purposes of any enforcement provision.

Proposed law (R.S. 9:2720.15) establishes parentage of the child born of the gestational carrier.

Proposed law (R.S. 9:2720.16) provides for the LDH Administrative Pre-parentage Certification and Vital Records Authority.

Proposed law (R.S. 9:2720.17) provides that in all proceedings under proposed law, the best interests of the child shall be the paramount consideration. A child's status as born through a gestational carrier arrangement shall not constitute grounds for any adverse determination regarding the child's welfare, adoption eligibility, or any other matter governed by the laws of this state.

Proposed law (R.S. 9:2720.18 and 2720.19) provides for judicial proceedings and dispute resolutions and authorizes the award of attorney fees.

Proposed law (R.S. 9:2720.20) provides that the provisions of proposed law will govern over if there is a conflict in certain circumstances.

Proposed law (R.S. 9:2720.21) provides that no person shall:

- (1) Knowingly induce a woman to enter into a gestational carrier agreement through fraud, misrepresentation, or undue influence.
- (2) Pay or receive compensation conditioned upon relinquishment of parentage rights or the outcome of the pregnancy in any manner inconsistent with this Chapter.
- (3) Advertise gestational carrier services in a manner that is false or materially misleading.

Proposed law provides that any person found in violation of proposed law resulting in harm to a gestational carrier or a child gives rise to a civil cause of action for compensatory and punitive damages and injunctive relief and establishes that intentional violations constitutes a misdemeanor punishable by a fine not exceeding \$10,000 or imprisonment not exceeding one year, or both.

Proposed law (R.S. 9:2720.22) establishes requirements for the La. Vital Records Registry.

Proposed law (R.S. 9:2720.23) provides for construction and severability.

Proposed law provides an effective date of Aug. 1, 2026.

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Proposed law provides that the LDH shall license gestational carrier agencies in this state, regardless of physical location.

Proposed law provides exemptions from licensure for attorneys, healthcare providers, mental health professionals, and individuals acting solely on their own behalf.

Proposed law establishes detailed application requirements, including organizational status, background checks, policies, escrow arrangements, bonding or financial security, training, and fees.

Proposed law mandates use of independent escrow accounts for all client funds, prohibits commingling, and requires pre-funding of anticipated expenses before medical procedures.

Proposed law sets escrow administration rules, including disbursement procedures, dispute handling, and return of unused funds.

Proposed law requires comprehensive escrow recordkeeping and annual financial reporting, including audits for higher-volume agencies.

Proposed law requires a mandatory disclosure packet to all parties detailing fees, relationships, legal risks, escrow terms, and complaint processes prior to contracting.

Proposed law establishes advertising standards prohibiting misleading statements, exploitation, and improper representations of licensure.

Proposed law prohibits coercive or unethical practices, including conditioning compensation on pregnancy termination decisions, retaliation, misrepresentation, and financial misconduct.

Proposed law mandates medical, psychological, and financial screening of all parties prior to matching, with documentation and retention requirements.

Proposed law requires independent legal counsel for both gestational carriers and intended parents and prohibits conflicts of interest.

Proposed law establishes conflict-of-interest restrictions, including bans on referral fees and dual representation.

Proposed law requires verification and maintenance of adequate health insurance coverage for gestational carriers.

Proposed law imposes extensive recordkeeping and confidentiality requirements, including HIPAA-compliant protections.

Proposed law grants LDH audit and inspection authority, including routine and for-cause reviews.

Proposed law creates a formal complaint process with timelines and confidentiality protections.

Proposed law requires LDH to maintain a public registry of licensed agencies and enforcement actions.

Proposed law authorizes administrative sanctions, including denial, suspension, revocation, and corrective actions for violations.

Proposed law establishes civil penalties scaled by severity and frequency of violations, including enhanced penalties for misuse of funds and unlicensed activity.

Proposed law authorizes restitution to harmed parties for economic losses resulting from violations.

Proposed law creates criminal offenses for unlicensed operation, fraud, and misappropriation of escrow funds, with misdemeanor and felony penalties.

Proposed law establishes a Gestational Carrier Consumer Protection Fund to support enforcement, education, registry maintenance, and restitution.

Proposed law provides a private right of action for gestational carriers and intended parents harmed by violations, including recovery of damages and attorney's fees.

Proposed law authorizes courts to award damages, punitive damages, and injunctive relief, and sets a three-year prescriptive period.

Proposed law creates a compliance certification process and centralized registry system for tracking gestational carrier arrangements and ensuring statutory compliance.

Proposed law requires data collection and annual public reporting on gestational carrier arrangements, outcomes, and agency compliance.

(Amends R.S. 9:2718-2720.15 and R.S. 44:4.1(B)(27); Adds R.S. 9:2720.16-2720.23 and R.S. 40:97 and 101-127)