

SURROGATE PARENTING ACT

Act 199 of 1988

AN ACT to establish surrogate parentage contracts as contrary to public policy and void; to prohibit surrogate parentage contracts for compensation; to provide for children conceived, gestated, and born pursuant to a surrogate parentage contract; and to provide for penalties and remedies.

History: 1988, Act 199, Eff. Sept. 1, 1988.

The People of the State of Michigan enact:

722.851 Short title.

Sec. 1. This act shall be known and may be cited as the "surrogate parenting act".

History: 1988, Act 199, Eff. Sept. 1, 1988.

722.853 Definitions.

Sec. 3. As used in this act:

(a) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother or surrogate carrier.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(c) "Intellectually disabled" means intellectual disability as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(d) "Mental illness" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.

(e) "Participating party" means a biological mother, biological father, surrogate carrier, or the spouse of a biological mother, biological father, or surrogate carrier, if any.

(f) "Surrogate carrier" means the female in whom an embryo is implanted in a surrogate gestation procedure.

(g) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(h) "Surrogate mother" means a female who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination according to a surrogate parentage contract.

(i) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination, or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental or custodial rights to the child. It is presumed that a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination by a person other than her husband, or in which a female agrees to surrogate gestation, includes a provision, whether or not express, that the female will relinquish her parental or custodial rights to the child.

History: 1988, Act 199, Eff. Sept. 1, 1988;—Am. 1990, Act 190, Imd. Eff. July 24, 1990;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

722.855 Surrogate parentage contract as void and unenforceable.

Sec. 5. A surrogate parentage contract is void and unenforceable as contrary to public policy.

History: 1988, Act 199, Eff. Sept. 1, 1988.

722.857 Surrogate parentage contract prohibited; conditions; surrogate parentage contract as felony; penalty.

Sec. 7. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability is the surrogate mother or surrogate carrier.

(2) A person other than an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability who enters into, induces, arranges, procures, or otherwise assists in the formation of a contract described in subsection (1) is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

History: 1988, Act 199, Eff. Sept. 1, 1988;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

722.859 Surrogate parentage contract for compensation prohibited; surrogate parentage contract for compensation as misdemeanor or felony; penalty.

Sec. 9. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract for compensation.

(2) A participating party other than an unemancipated minor female or a female diagnosed as being intellectually disabled or as having a mental illness or developmental disability who knowingly enters into a surrogate parentage contract for compensation is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both.

(3) A person other than a participating party who induces, arranges, procures, or otherwise assists in the formation of a surrogate parentage contract for compensation is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

History: 1988, Act 199, Eff. Sept. 1, 1988;—Am. 2014, Act 69, Imd. Eff. Mar. 28, 2014.

722.861 Custody of child.

Sec. 11. If a child is born to a surrogate mother or surrogate carrier pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the circuit court orders otherwise. The circuit court shall award legal custody of the child based on a determination of the best interests of the child. As used in this section, "best interests of the child" means that term as defined in section 3 of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.23 of the Michigan Compiled Laws.

History: 1988, Act 199, Eff. Sept. 1, 1988.

722.863 Effective date.

Sec. 13. This act shall take effect September 1, 1988.

History: 1988, Act 199, Eff. Sept. 1, 1988.