

By: Gonzalez Toureilles

H.B. No. 822

A BILL TO BE ENTITLED

AN ACT

relating to gestational agreements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 160.102(9), Family Code, is amended to read as follows:

(9) "Intended parent [~~parents~~]" means an individual [~~individuals~~] who enters [~~enter~~] into an agreement providing that the individual [~~individuals~~] will be the parent [~~parents~~] of a child born to a gestational mother by means of assisted reproduction, regardless of whether the [~~either~~] individual has a genetic relationship with the child.

SECTION 2. Section 160.752(a), Family Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter or another law, this subchapter authorizes an agreement between a woman and the intended parent [~~parents~~] of a child in which the woman relinquishes all rights as a parent of a child conceived by means of assisted reproduction and that provides that the intended parent becomes [~~parents become~~] the parent [~~parents~~] of the child.

SECTION 3. Sections 160.754(a) and (b), Family Code, are amended to read as follows:

(a) A prospective gestational mother, her husband if she is married, [~~each donor~~], and each intended parent may enter into a written agreement providing that:

1 (1) the prospective gestational mother agrees to
2 pregnancy by means of assisted reproduction;

3 (2) the prospective gestational mother and [~~7~~] her
4 husband if she is married [~~7~~, and each donor other than the intended
5 ~~parents, if applicable,~~7] relinquish all parental rights and duties
6 with respect to a child conceived through assisted reproduction;

7 (3) the intended parent [~~parents~~] will be the parent
8 [~~parents~~] of the child; and

9 (4) the gestational mother and each intended parent
10 agree to exchange throughout the period covered by the agreement
11 all relevant information regarding the health of the gestational
12 mother and each intended parent.

13 (b) [~~The intended parents must be married to each other.~~]
14 Each intended parent must be a party to the gestational agreement.

15 SECTION 4. Section 160.755, Family Code, is amended to read
16 as follows:

17 Sec. 160.755. PETITION TO VALIDATE GESTATIONAL AGREEMENT.

18 (a) The intended parent [~~parents~~] and the prospective gestational
19 mother under a gestational agreement may commence a proceeding to
20 validate the agreement.

21 (b) A person may maintain a proceeding to validate a
22 gestational agreement only if:

23 (1) the prospective gestational mother or the intended
24 parent has [~~parents have~~] resided in this state for the 90 days
25 preceding the date the proceeding is commenced;

26 (2) the prospective gestational mother's husband, if
27 she is married, is joined as a party to the proceeding; and

1 (3) a copy of the gestational agreement is attached to
2 the petition.

3 SECTION 5. Sections 160.756(b) and (c), Family Code, are
4 amended to read as follows:

5 (b) The court may validate a gestational agreement as
6 provided by Subsection (c) only if the court finds that:

7 (1) the parties have submitted to the jurisdiction of
8 the court under the jurisdictional standards of this chapter;

9 (2) if there is an intended mother, the medical
10 evidence provided shows that the intended mother is unable to carry
11 a pregnancy to term and give birth to the child or is unable to carry
12 the pregnancy to term and give birth to the child without
13 unreasonable risk to her physical or mental health or to the health
14 of the unborn child;

15 (3) unless waived by the court, an agency or other
16 person has conducted a home study of the intended parent [~~parents~~]
17 and has determined that the intended parent meets [~~parents meet~~]
18 the standards of fitness applicable to adoptive parents;

19 (4) each party to the agreement has voluntarily
20 entered into and understands the terms of the agreement;

21 (5) the prospective gestational mother has had at
22 least one previous pregnancy and delivery and carrying another
23 pregnancy to term and giving birth to another child would not pose
24 an unreasonable risk to the child's health or the physical or mental
25 health of the prospective gestational mother; and

26 (6) the parties have adequately provided for which
27 party is responsible for all reasonable health care expenses

1 associated with the pregnancy, including providing for who is
2 responsible for those expenses if the agreement is terminated.

3 (c) If the court finds that the requirements of Subsection
4 (b) are satisfied, the court may render an order validating the
5 gestational agreement and declaring that the intended parent
6 [~~parents~~] will be the parent [~~parents~~] of a child born under the
7 agreement.

8 SECTION 6. Section 160.759(a), Family Code, is amended to
9 read as follows:

10 (a) Before a prospective gestational mother becomes
11 pregnant by means of assisted reproduction, the prospective
12 gestational mother, her husband if she is married, or an [~~either~~]
13 intended parent may terminate a gestational agreement validated
14 under Section 160.756 by giving written notice of the termination
15 to each other party to the agreement.

16 SECTION 7. Sections 160.760(a), (b), and (d), Family Code,
17 are amended to read as follows:

18 (a) On the birth of a child to a gestational mother under a
19 validated gestational agreement, the intended parent [~~parents~~]
20 shall file a notice of the birth with the court not later than the
21 300th day after the date assisted reproduction occurred.

22 (b) After receiving notice of the birth, the court shall
23 render an order that:

24 (1) confirms that the intended parent is [~~parents are~~]
25 the child's parent [~~parents~~];

26 (2) requires the gestational mother to surrender the
27 child to the intended parent [~~parents~~], if necessary; and

1 (3) requires the bureau of vital statistics to issue a
2 birth certificate naming the intended parent [~~parents~~] as the
3 child's parent [~~parents~~].

4 (d) If the intended parent fails [~~parents fail~~] to file the
5 notice required by Subsection (a), the gestational mother or an
6 appropriate state agency may file the notice required by that
7 subsection. On a showing that an order validating the
8 gestational agreement was rendered in accordance with Section
9 160.756, the court shall order that the intended parent is [~~parents~~
10 ~~are~~] the child's parent [~~parents~~] and is [~~are~~] financially
11 responsible for the child.

12 SECTION 8. The changes in law made by this Act apply to a
13 gestational agreement regardless of the date:

14 (1) the agreement was executed; or

15 (2) a proceeding to validate the agreement was
16 commenced.

17 SECTION 9. This Act takes effect September 1, 2009.