

1-1 By: Watson S.B. No. 2027
1-2 (In the Senate - Filed March 12, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 14, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 14, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2027 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to gestational agreements.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subdivision (9), Section 160.102, Family Code,
1-13 is amended to read as follows:

1-14 (9) "Intended parent [~~parents~~]" means an individual
1-15 [~~individuals~~] who enters [~~enter~~] into an agreement providing that
1-16 the individual [~~individuals~~] will be the parent [~~parents~~] of a
1-17 child born to a gestational mother by means of assisted
1-18 reproduction, regardless of whether the [~~either~~] individual has a
1-19 genetic relationship with the child.

1-20 SECTION 2. Subsection (a), Section 160.752, Family Code, is
1-21 amended to read as follows:

1-22 (a) Notwithstanding any other provision of this chapter or
1-23 another law, this subchapter authorizes an agreement between a
1-24 woman and the intended parent or parents of a child in which the
1-25 woman relinquishes all rights as a parent of a child conceived by
1-26 means of assisted reproduction and that provides that each [~~the~~]
1-27 intended parent becomes [~~parents become~~] the parent [~~parents~~] of
1-28 the child.

1-29 SECTION 3. Subsections (a) and (b), Section 160.754, Family
1-30 Code, are amended to read as follows:

1-31 (a) A prospective gestational mother, her husband if she is
1-32 married, [~~each donor,~~] and each intended parent may enter into a
1-33 written agreement providing that:

1-34 (1) the prospective gestational mother agrees to
1-35 pregnancy by means of assisted reproduction;

1-36 (2) the prospective gestational mother and [~~and~~] her
1-37 husband if she is married [~~and each donor other than the intended~~
1-38 ~~parents, if applicable,~~] relinquish all parental rights and duties
1-39 with respect to a child conceived through assisted reproduction;

1-40 (3) each [~~the~~] intended parent [~~parents~~] will be the
1-41 parent [~~parents~~] of the child; and

1-42 (4) the gestational mother and each intended parent
1-43 agree to exchange throughout the period covered by the agreement
1-44 all relevant information regarding the health of the gestational
1-45 mother and each intended parent.

1-46 (b) Subject to the requirements of this subsection, an
1-47 intended parent may be married or unmarried. If an intended parent
1-48 is married, each spouse must be an intended parent and a party to
1-49 the gestational agreement. If an intended parent is unmarried,
1-50 another individual may not be a party to the gestational agreement
1-51 as an additional intended parent of the child [~~The intended parents~~
1-52 ~~must be married to each other. Each intended parent must be a party~~
1-53 ~~to the gestational agreement~~].

1-54 SECTION 4. Section 160.755, Family Code, is amended to read
1-55 as follows:

1-56 Sec. 160.755. PETITION TO VALIDATE GESTATIONAL AGREEMENT.

1-57 (a) The intended parent or parents and the prospective gestational
1-58 mother under a gestational agreement may commence a proceeding to
1-59 validate the agreement.

1-60 (b) A person may maintain a proceeding to validate a
1-61 gestational agreement only if:

1-62 (1) the prospective gestational mother or an [~~the~~]
1-63 intended parent has [~~parents have~~] resided in this state for the 90

2-1 days preceding the date the proceeding is commenced;
2-2 (2) the prospective gestational mother's husband, if
2-3 she is married, is joined as a party to the proceeding; and
2-4 (3) a copy of the gestational agreement is attached to
2-5 the petition.

2-6 SECTION 5. Subsections (b) and (c), Section 160.756, Family
2-7 Code, are amended to read as follows:

2-8 (b) The court may validate a gestational agreement as
2-9 provided by Subsection (c) only if the court finds that:

2-10 (1) the parties have submitted to the jurisdiction of
2-11 the court under the jurisdictional standards of this chapter;

2-12 (2) if there is an intended mother, the medical
2-13 evidence provided shows that the intended mother is unable to carry
2-14 a pregnancy to term and give birth to the child or is unable to carry
2-15 the pregnancy to term and give birth to the child without
2-16 unreasonable risk to her physical or mental health or to the health
2-17 of the unborn child;

2-18 (3) unless waived by the court, an agency or other
2-19 person has conducted a home study of the intended parent or parents
2-20 and has determined that the intended parent or parents meet the
2-21 standards of fitness applicable to adoptive parents;

2-22 (4) each party to the agreement has voluntarily
2-23 entered into and understands the terms of the agreement;

2-24 (5) the prospective gestational mother has had at
2-25 least one previous pregnancy and delivery and carrying another
2-26 pregnancy to term and giving birth to another child would not pose
2-27 an unreasonable risk to the child's health or the physical or mental
2-28 health of the prospective gestational mother; and

2-29 (6) the parties have adequately provided for which
2-30 party is responsible for all reasonable health care expenses
2-31 associated with the pregnancy, including providing for who is
2-32 responsible for those expenses if the agreement is terminated.

2-33 (c) If the court finds that the requirements of Subsection
2-34 (b) are satisfied, the court may render an order validating the
2-35 gestational agreement and declaring that each [the] intended parent
2-36 ~~[parents]~~ will be the parent [parents] of a child born under the
2-37 agreement.

2-38 SECTION 6. Subsection (a), Section 160.759, Family Code, is
2-39 amended to read as follows:

2-40 (a) Before a prospective gestational mother becomes
2-41 pregnant by means of assisted reproduction, the prospective
2-42 gestational mother, her husband if she is married, or an [either]
2-43 intended parent may terminate a gestational agreement validated
2-44 under Section 160.756 by giving written notice of the termination
2-45 to each other party to the agreement.

2-46 SECTION 7. Subsections (a), (b), and (d), Section 160.760,
2-47 Family Code, are amended to read as follows:

2-48 (a) On the birth of a child to a gestational mother under a
2-49 validated gestational agreement, the intended parent or parents
2-50 shall file a notice of the birth with the court not later than the
2-51 300th day after the date assisted reproduction occurred.

2-52 (b) After receiving notice of the birth, the court shall
2-53 render an order that:

2-54 (1) confirms that each [the] intended parent is
2-55 ~~[parents are]~~ the child's parent [parents];

2-56 (2) requires the gestational mother to surrender the
2-57 child to the intended parent or parents, if necessary; and

2-58 (3) requires the bureau of vital statistics to issue a
2-59 birth certificate naming each [the] intended parent [parents] as
2-60 the child's parent [parents].

2-61 (d) If the intended parent or parents fail to file the
2-62 notice required by Subsection (a), the gestational mother or an
2-63 appropriate state agency may file the notice required by that
2-64 subsection. On a showing that an order validating the gestational
2-65 agreement was rendered in accordance with Section 160.756, the
2-66 court shall order that each [the] intended parent is ~~[parents are]~~
2-67 the child's parent [parents] and is [are] financially responsible
2-68 for the child.

2-69 SECTION 8. The changes in law made by this Act apply to a

3-1 gestational agreement regardless of the date:
3-2 (1) the agreement was executed; or
3-3 (2) a proceeding to validate the agreement was
3-4 commenced.

3-5 SECTION 9. This Act takes effect September 1, 2009.

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