A BILL TO BE ENTITLED

1   AN ACT

2 relating to gestational agreements and a requirement that pregnancy

3 be disclosed in a suit for the dissolution of a marriage.

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

5   SECTION 1. Section 6.406(a), Family Code, is amended to

6 read as follows:

7   (a) The petition in a suit for dissolution of a marriage

8 shall state whether:

9   (1) there are children born or adopted of the marriage

10 who are under 18 years of age or who are otherwise entitled to

11 support as provided by Chapter 154;

12   (2) a party to the marriage is pregnant; or

13   (3) the parties to the marriage have entered into a

14 gestational agreement establishing a parent-child relationship

15 between the parties and the child to be born under the agreement.

16   SECTION 2. Section 160.752(b), Family Code, is amended to

17 read as follows:

18   (b) This subchapter controls over any other law with respect

19 to a child conceived under a gestational agreement under this

20 subchapter or other law, including the law of a foreign country.

21   SECTION 3. Section 160.753, Family Code, is amended to read

22 as follows:

23   Sec. 160.753. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP.

24 (a) Notwithstanding any other provision of this chapter or another

1 law, the mother-child relationship exists between a woman and a

2 child [by an adjudication confirming the woman as a parent of the

3 child] born to a gestational mother under a gestational agreement

4 [if the gestational agreement is validated] under this subchapter

5 or enforceable under other law, including the law of a foreign

6 country, regardless of the fact that the gestational mother gave

7 birth to the child, unless:

8   (1) the agreement is terminated before the gestational

9 mother becomes pregnant; or

10   (2) a court renders an order denying the existence of

11 the mother-child relationship between the woman and the child.

12   (b) The father-child relationship exists between a man and a

13 child [and a man by an adjudication confirming the man as a parent

14 of the child] born to a gestational mother under a gestational

15 agreement [if the gestational agreement is validated] under this

16 subchapter or enforceable under other law, including the law of a

17 foreign country, unless:

18   (1) the agreement is terminated before the gestational

19 mother becomes pregnant; or

20   (2) a court renders an order denying the existence of

21 the father-child relationship between the man and the child.

22   SECTION 4. Section 160.754, Family Code, is amended by

23 adding Subsection (h) to read as follows:

24   (h) This section does not affect the validity of a

25 gestational agreement entered into under the laws of a foreign

26 country.

27   SECTION 5. Section 160.755, Family Code, is amended by

1 amending Subsection (b) and adding Subsection (c) to read as
2 follows:
3   (b) Except as provided by Subsection (c), a [A] person may
4 maintain a proceeding to validate a gestational agreement only if:
5   (1) the prospective gestational mother or the intended
6 parents have resided in this state for the 90 days preceding the
7 date the proceeding is commenced;
8   (2) the prospective gestational mother's husband, if
9 she is married, is joined as a party to the proceeding; and
10   (3) a copy of the gestational agreement is attached to
11 the petition.
12   (c) A proceeding to validate a gestational agreement
13 entered into under the law of a foreign country may be maintained
14 without satisfying Subsection (b)(2) if the law of the foreign
15 country does not require the joinder of the gestational mother's
16 husband.
17   SECTION 6. Section 160.756, Family Code, is amended by
18 amending Subsections (a) and (c) and adding Subsection (e) to read
19 as follows:
20   (a) A gestational agreement may [must] be validated as
21 provided by this section.
22   (c) If the court finds that the requirements of Subsection
23 (b) are satisfied, the court may render an order validating the
24 gestational agreement [and declaring that the intended parents will
25 be the parents of a child born under the agreement].
26   (e) Notwithstanding Subsection (b), (c), or (d), the court
27 shall validate a gestational agreement entered into under the laws

1 of a foreign country if the agreement complies with the

2 requirements of those laws.

3   SECTION 7.   Section 160.757, Family Code, is amended to read

4 as follows:

5   Sec. 160.757. INSPECTION OF RECORDS.   The proceedings,

6 records, and identities of the parties to a gestational agreement

7 [under this subchapter] are subject to inspection under the same

8 standards of confidentiality that apply to an adoption under the

9 laws of this state.

10   SECTION 8.   The heading to Section 160.760, Family Code, is

11 amended to read as follows:

12   Sec. 160.760. PARENTAGE   UNDER   [VALIDATED]   GESTATIONAL

13 AGREEMENT.

14   SECTION 9.   Sections 160.760(a) and (d), Family Code, are

15 amended to read as follows:

16   (a) On the birth of a child to a gestational mother under a

17 [validated] gestational agreement, the intended parents shall file

18 a notice of the birth with the court not later than the 300th day

19 after the date assisted reproduction occurred.

20   (d) If the intended parents fail to file the notice required

21 by Subsection (a), the gestational mother or an appropriate state

22 agency may file the notice required by that subsection.   On a

23 showing that a [an order validating the] gestational agreement was

24 entered into by the intended parents and the gestational mother,

25 the agreement was not terminated before the gestational mother

26 became pregnant, and a court has not denied the existence of the

27 parent-child relationship between the intended parents and the

1 child [rendered in accordance with Section 160.756], the court

2 shall order that the intended parents are the child's parents and

3 are financially responsible for the child.

4 SECTION 10. Section 160.761, Family Code, is amended to

5 read as follows:

6 Sec. 160.761. EFFECT OF GESTATIONAL MOTHER'S MARRIAGE AFTER

7 ENTERING [VALIDATION OF] AGREEMENT. If a gestational mother is

8 married after entering into [the court renders an order validating]

9 a gestational agreement [under this subchapter]:

10 (1) the validity of the gestational agreement is not

11 affected;

12 (2) the gestational mother's husband is not required

13 to consent to the agreement; and

14 (3) the gestational mother's husband is not a presumed

15 father of the child born under the terms of the agreement.

16 SECTION 11. Section 160.762, Family Code, is amended to

17 read as follows:

18 Sec. 160.762. RESPONSIBILITY OF INTENDED PARENTS UNDER

19 [EFFECT OF] GESTATIONAL AGREEMENT; FEES AND COSTS [THAT IS NOT

20 VALIDATED]. (a) [A gestational agreement that is not validated as

21 provided by this subchapter is unenforceable, regardless of whether

22 the agreement is in a record.

23 [(b) The parent-child relationship of a child born under a

24 gestational agreement that is not validated as provided by this

25 subchapter is determined as otherwise provided by this chapter.

26 [(c)] A party to a gestational agreement [that is not

27 validated as provided by this subchapter] who is an intended parent

1 under the agreement <u>shall</u> [~~may~~] be held liable for the support of a

2 child born under the agreement, <u>unless the agreement was terminated</u>

3 <u>before the gestational mother became pregnant or a court denies the</u>

4 <u>existence of the parent-child relationship between the intended</u>

5 <u>parent and the child</u> [~~even if the agreement is otherwise~~

6 ~~unenforceable~~].

7 　　　　(b) [~~(d)~~] The court may assess filing fees, reasonable

8 attorney's fees, fees for genetic testing, other costs, and

9 necessary travel and other reasonable expenses incurred in a

10 proceeding under this section. Attorney's fees awarded by the

11 court may be paid directly to the attorney. An attorney who is

12 awarded attorney's fees may enforce the order in the attorney's own

13 name.

14 　　　　SECTION 12. Section 6.406(a), Family Code, as amended by

15 this Act, applies only to a petition for dissolution of a marriage

16 that is filed on or after the effective date of this Act. A petition

17 for dissolution of a marriage that is filed before the effective

18 date of this Act is governed by the law in effect on the date the

19 petition is filed, and the former law is continued in effect for

20 that purpose.

21 　　　　SECTION 13. This Act takes effect September 1, 2015.