



Rep. Jay Hoffman

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10400SB1994ham001

LRB104 07807 JRC 26178 a

1 AMENDMENT TO SENATE BILL 1994

2 AMENDMENT NO. _____. Amend Senate Bill 1994 on page 35,
3 below line 9, by inserting:

4 "Section 10. The Gestational Surrogacy Act is amended by
5 changing Section 25 as follows:

6 (750 ILCS 47/25)

7 Sec. 25. Requirements for a gestational surrogacy
8 contract.

9 (a) A gestational surrogacy contract shall be presumed
10 enforceable for purposes of State law only if:

11 (1) it meets the contractual requirements set forth in
12 subsection (b) of this Section; and

13 (2) it contains at a minimum each of the terms set
14 forth in subsection (c) of this Section.

15 (b) A gestational surrogacy contract shall meet the
16 following requirements:

1 (1) it shall be in writing;

2 (2) it shall be executed prior to the commencement of
3 any medical procedures (other than medical or mental
4 health evaluations necessary to determine eligibility of
5 the parties pursuant to Section 20 of this Act) in
6 furtherance of the gestational surrogacy:

7 (i) by a gestational surrogate meeting the
8 eligibility requirements of subsection (a) of Section
9 20 of this Act and, if married, the gestational
10 surrogate's husband; and

11 (ii) by the intended parent or parents meeting the
12 eligibility requirements of subsection (b) of Section
13 20 of this Act. In the event an intended parent is
14 married, both husband and wife must execute the
15 gestational surrogacy contract;

16 (3) each of the gestational surrogate and the intended
17 parent or parents shall have been represented by separate
18 counsel in all matters concerning the gestational
19 surrogacy and the gestational surrogacy contract;

20 (3.5) each of the gestational surrogate and the
21 intended parent or parents shall have signed a written
22 acknowledgement that he or she received information about
23 the legal, financial, and contractual rights,
24 expectations, penalties, and obligations of the surrogacy
25 agreement;

26 (4) if the gestational surrogacy contract provides for

1 the payment of compensation to the gestational surrogate,
2 the compensation shall have been placed in escrow with an
3 independent escrow agent that is bonded prior to the
4 gestational surrogate's commencement of any medical
5 procedure (other than medical or mental health evaluations
6 necessary to determine the gestational surrogate's
7 eligibility pursuant to subsection (a) of Section 20 of
8 this Act). The independent escrow agent must hold a
9 minimum bond of no less than \$1,000,000; and

10 (5) it shall be witnessed by 2 competent adults.

11 (c) A gestational surrogacy contract shall provide for:

12 (1) the express written agreement of the gestational
13 surrogate to:

14 (i) undergo pre-embryo transfer and attempt to
15 carry and give birth to the child; and

16 (ii) surrender custody of the child to the
17 intended parent or parents immediately upon the birth
18 of the child;

19 (2) if the gestational surrogate is married, the
20 express agreement of her husband to:

21 (i) undertake the obligations imposed on the
22 gestational surrogate pursuant to the terms of the
23 gestational surrogacy contract;

24 (ii) surrender custody of the child to the
25 intended parent or parents immediately upon the birth
26 of the child;

1 (3) the right of the gestational surrogate to utilize
2 the services of a physician of her choosing, after
3 consultation with the intended parents, to provide her
4 care during the pregnancy; and

5 (4) the express written agreement of the intended
6 parent or parents to:

7 (i) accept custody of the child immediately upon
8 his or her birth; and

9 (ii) assume sole responsibility for the support of
10 the child immediately upon his or her birth.

11 (d) A gestational surrogacy contract shall be presumed
12 enforceable for purposes of State law even though it contains
13 one or more of the following provisions:

14 (1) the gestational surrogate's agreement to undergo
15 all medical exams, treatments, and fetal monitoring
16 procedures that the physician recommended for the success
17 of the pregnancy;

18 (2) the gestational surrogate's agreement to abstain
19 from any activities that the intended parent or parents or
20 the physician reasonably believes to be harmful to the
21 pregnancy and future health of the child, including,
22 without limitation, smoking, drinking alcohol, using
23 nonprescribed drugs, using prescription drugs not
24 authorized by a physician aware of the gestational
25 surrogate's pregnancy, exposure to radiation, or any other
26 activities proscribed by a health care provider;

1 (3) the agreement of the intended parent or parents to
2 pay the gestational surrogate reasonable compensation; and

3 (4) the agreement of the intended parent or parents to
4 pay for or reimburse the gestational surrogate for
5 reasonable expenses (including, without limitation,
6 medical, legal, or other professional expenses) related to
7 the gestational surrogacy and the gestational surrogacy
8 contract.

9 (e) In the event that any of the requirements of this
10 Section are not met, a court of competent jurisdiction shall
11 determine parentage based on evidence of the parties' intent.

12 (Source: P.A. 93-921, eff. 1-1-05.)".