ASSISTED REPRODUCTION AND SURROGACY PARENTAGE ACT

Act 24 of 2024

AN ACT to establish and allow for the use of assisted reproduction, including surrogacy; to provide for a child conceived, gestated, and born through the use of assisted reproduction, including through surrogacy; to provide for the powers and duties of certain state officers and entities; to provide remedies; and to repeal acts and parts of acts.

History: 2024, Act 24, Eff. Apr. 2, 2025

The People of the State of Michigan enact:

PART 1
GENERAL PROVISIONS

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722.1701 Short title.

Sec. 101.

This act may be cited as the "assisted reproduction and surrogacy parentage act".

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1702 Applicability of act.

Sec. 102.

This act does not apply to the birth of a child conceived by sexual intercourse. Part 2 applies to the birth of a child by assisted reproduction not involving surrogacy. Part 3 applies to the birth of a child by assisted reproduction under a surrogacy agreement.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1703 Definitions.

Sec. 103.

As used in this act:

(a) "Assisted reproduction" means a method of causing pregnancy through means other than by sexual intercourse including, but not limited to, all of the following:

(i) Intrauterine, intracervical, or vaginal insemination.

(ii) Donation of gametes.

(iii) Donation of embryos.

(iv) In vitro fertilization and embryo transfer.

(v) Intracytoplasmic sperm injection.

(vi) Assisted reproductive technology.

(b) "Child" means an individual born as a result of assisted reproduction or under a surrogacy agreement, whose parentage may be determined under this act.

(c) "Donor" means an individual who provides gametes intended for use in assisted reproduction, whether or not for compensation. Donor does not include an individual who gives birth to a child conceived by assisted reproduction, except in the case of surrogacy, or an individual who is a parent under the rules governing the parentage of children conceived by assisted reproduction or assisted reproduction under a surrogacy agreement under parts 2 and 3.

(d) "Genetic surrogate" means an individual, not an intended parent, who agrees to become pregnant through assisted reproduction using the individual's own gametes.

(e) "Gestational surrogate" means an individual, not an intended parent, who agrees to become pregnant through assisted reproduction using gametes that are not the individual's own.

(f) "Intended parent" means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction or by assisted reproduction under a surrogacy agreement.

(g) "Medical evaluation" means a complete consultation with and evaluation by a physician.

(h) "Mental health consultation" means a consultation with and, when required by this act, an assessment by a mental health professional.

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

(j) "Physician" means an individual licensed under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556, to engage in the practice of medicine or osteopathic medicine and surgery.

(k) "Surrogacy agreement" means an agreement between 1 or more intended parents and a surrogate in which the surrogate agrees to become pregnant by assisted reproduction and that provides that each intended parent is a parent of a child conceived under the agreement. Unless otherwise specified, the term refers to both a gestational surrogacy agreement and a genetic surrogacy agreement.

(l) "Surrogate" means an individual who is not an intended parent and who agrees to become pregnant through assisted reproduction under a surrogacy agreement. Surrogate includes a genetic surrogate or gestational surrogate, as applicable.

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History: 2024, Act 24, Eff. Apr. 2, 2025

722.1704 Establishment of parent-child relationship.

Sec. 104.

A parent-child relationship is established between an individual and a child if 1 of the following occurs:

(a) The individual gives birth to the child, except as provided in part 3.

(b) The individual's parentage of a child is established under part 2.

(c) The individual's parentage of a child is established under part 3.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1705 Natural parent.

Sec. 105.

Unless parental rights are terminated, a parent-child relationship established under this act applies for all purposes. An individual who establishes a parent-child relationship under this act is considered a natural parent for all purposes, including under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1706 Donor status; assisted reproduction.

Sec. 106.

A donor is not a parent of a child conceived by assisted reproduction.

History: 2024, Act 24, Eff. Apr. 2, 2025

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722.1707 Venue for adjudication of parentage.

Sec. 107.

Venue for a proceeding to adjudicate parentage under this act is in the county of this state in which 1 of the following occurs:

(a) The child resides, is born, or will be born.

(b) A parent or intended parent resides.

(c) A proceeding has been commenced for administration of the estate of an individual who is or may be a parent under this act.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1708 Limitation on use of genetic testing.

Sec. 108.

Genetic testing may not be used for either of the following purposes:

(a) To challenge the parentage of an individual who is a parent under part 2 or 3.

(b) To establish the parentage of an individual who is a donor under this act.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1709 Records.

Sec. 109.

On request of a party, the court may order the court records in an action under this act to be sealed to the general public. If the records are ordered sealed, all pleadings, papers, or documents in the court records, including the case history or registry of actions, must not be available for inspection, unless the court, for good cause shown, orders the inspection or unless requested by the child or a party.

History: 2024, Act 24, Eff. Apr. 2, 2025

PART 2
PARENTAGE OF CHILD OF ASSISTED REPRODUCTION NOT INVOLVING SURROGACY

722.1801 Consent to assisted reproduction; parent status.

Sec. 201.

An individual who consents under section 202 to assisted reproduction with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

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History: 2024, Act 24, Eff. Apr. 2, 2025

722.1802 Requirements for consent to assisted reproduction.

Sec. 202.

(1) The consent described in section 201 must be either of the following:

(a) In a record signed before, on, or after the birth of the child by the individual who gave birth to the child and by an individual who intends to be a parent of the child. An acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, is a record within the meaning of this subdivision.

(b) In an agreement entered into before conception that the individual who gave birth to the child and the individual who intends to be a parent of the child intended they both would be parents of the child.

(2) Failure to consent as required by subsection (1) does not preclude a court from finding consent to parent if the individual for the first 2 years of the child's life, including any period of temporary absence, resided in the same household with the child and openly held out the child as the individual's child.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1803 Adjudication of parentage; proceedings; burden of proof.

Sec. 203.

(1) An individual who is an intended parent or the individual who gave birth to the child may bring a proceeding to adjudicate parentage for a judgment of parentage in the family division of the circuit court. If the court determines the individual is a parent under this act, either because the individual gave birth to the child or the individual is a consenting intended parent under section 202, the court shall adjudicate the individual to be a parent

of the child.

(2) The individual who will give or who gave birth or an individual who is or claims to be a parent under this section may commence an action before or after the birth of a child to obtain a judgment to declare that the intended parent or parents are the parent or parents of the resulting child immediately on birth of the child and order that parental rights and responsibilities vest exclusively in the intended parent or parents immediately on birth of the child. A certificate of live birth of a child must comply with this act and must be established as provided under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(3) On request of a party and consistent with law of this state other than this act, the court in an action under this act may order the name of the child changed. If the final judgment is at variance with the child's birth certificate, the court must order the state registrar to issue an amended birth certificate.

(4) A judgment issued before the birth of the resulting child does not take effect until the birth of the resulting child. This subsection must not be construed to limit the court's authority to issue other orders under other laws of this state.

(5) This state, the department, and the hospital where the child is or is expected to be born are not necessary parties to an action under this section.

(6) The burden of proof in an action under this section is by a preponderance of the evidence.

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History: 2024, Act 24, Eff. Apr. 2, 2025

722.1804 Parentage of deceased intended parent.

Sec. 204.

(1) If an individual who intends to be a parent of a child conceived by assisted reproduction dies during the period between the transfer of a gamete or embryo and the birth of the child, the individual's death does not preclude the establishment of the individual's parentage of the child if the individual otherwise would be a parent of the child under this act.

(2) If an individual who consented in a record to assisted reproduction by an individual who agreed to give birth to a child dies before a transfer of gametes or embryos, the deceased individual is a parent of a child conceived by the assisted reproduction only if both of the following occurred:

(a) Either the individual consented in a record that if assisted reproduction were to occur after the death of the individual, the individual would be a parent of the child or the individual's intent to be a parent of a child conceived by assisted reproduction after the individual's death is established by clear and convincing evidence.

(b) Either the transfer occurs not later than 36 months after the individual's death or the child's birth occurs not later than 45 months after the individual's death.

History: 2024, Act 24, Eff. Apr. 2, 2025

PART 3
PARENTAGE OF CHILD BORN THROUGH SURROGACY

722.1901 Execution of surrogacy agreements; individual requirements.

Sec. 301.

(1) To execute an agreement to act as a surrogate, an individual must meet all of the following requirements:

(a) Be 21 years of age or older.

(b) Have previously given birth to at least 1 child.

(c) Have completed a medical evaluation concerning the surrogacy arrangement.

(d) Have completed a mental health consultation concerning the surrogacy arrangement.

(e) Have independent legal representation of the individual's choice by an attorney licensed in this state

throughout the agreement negotiation process, the execution of the agreement, and the duration of the agreement about the terms of the surrogacy agreement and the potential legal consequences of the surrogacy agreement.

(2) To execute a surrogacy agreement, an intended parent, whether or not genetically related to the child, must meet all of the following requirements:

(a) Be 21 years of age or older.

(b) Have completed a mental health consultation.

(c) Have independent legal representation of the intended parent's or parents' choice by an attorney licensed in this state throughout the agreement negotiation process, the execution of the agreement, and the duration of the agreement about the terms of the surrogacy agreement and the potential legal consequences of the surrogacy agreement.

History: 2024, Act 24, Eff. Apr. 2, 2025

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722.1902 Surrogacy agreement; process requirements.

Sec. 302.

A surrogacy agreement must meet all of the following requirements:

(a) One or more of the following must apply:

(i) At least 1 party must be a resident of this state.

(ii) The birth will occur or is anticipated to occur in this state.

(iii) The assisted reproduction performed under the surrogacy agreement will occur in this state.

(b) The surrogate and each intended parent must meet the requirements of section 301.

(c) Each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties to the agreement.

(d) Each party listed in subdivision (c) must sign the agreement.

(e) The signature of each party to the agreement must be attested by a notarial officer.

(f) The intended parent or parents must pay for independent legal representation for the surrogate.

(g) The agreement must be executed before a medical procedure occurs related to the surrogacy agreement, other than the medical evaluation and mental health consultations required by section 301.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1903 Surrogacy agreement; compliance requirements; permissible provisions.

Sec. 303.

(1) A surrogacy agreement must comply with all of the following requirements:

(a) The surrogate must agree to attempt to become pregnant by means of assisted reproduction.

(b) Except as otherwise provided in sections 306, 308, and 309, the surrogate and the surrogate's spouse or former spouse, if any, must have no claim to parentage of a child conceived by assisted reproduction under the agreement.

(c) The surrogate's spouse, if any, must acknowledge and agree to comply with the obligations imposed on the surrogate by the agreement.

(d) Except as otherwise provided in sections 306, 308, and 309, the agreement must provide that the intended parent, or, if there are 2 intended parents, each intended parent jointly and severally, immediately on birth, will be the exclusive parent or parents of the child, regardless of the number of children born or gender or mental or physical condition of each child.

(e) Except as otherwise provided in sections 306, 308, and 309, the intended parent, or, if there are 2 intended parents, each parent jointly and severally, immediately on birth, will assume responsibility for the financial support

of the child, regardless of the number of children born or gender or mental or physical condition of each child.

(f) The agreement must include information disclosing that the intended parent or parents will cover the agreed-on expenses of the surrogate, the assisted reproduction expenses, and the medical expenses for the surrogate and the child.

(g) The agreement must permit the surrogate to make all health and welfare decisions regarding the surrogate and the pregnancy, including, but not limited to, whether to consent to a cesarean section or multiple embryo transfer. Notwithstanding anything in this act, any provision in the agreement to the contrary is void and unenforceable. This act does not diminish the right of the surrogate under section 28 of article I of the state constitution of 1963.

(h) The surrogacy agreement must permit the surrogate to use the services of a health care practitioner of the surrogate's choosing.

(i) The surrogacy agreement must include information about each party's right under section 305 to terminate the surrogacy agreement.

(2) A surrogacy agreement may provide for 1 or both of the following:

(a) Payment of compensation, support, and reasonable expenses.

(b) Reimbursement of specific agreed-on expenses if the agreement is terminated under section 305.

(3) A right created under a surrogacy agreement is not assignable, and there is no third-party beneficiary of the surrogacy agreement other than the child.

(4) If any of the requirements of this part are not met, a court of competent jurisdiction must determine parentage under section 309(1) and (2).

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History: 2024, Act 24, Eff. Apr. 2, 2025

722.1904 Effect of subsequent change in marital status.

Sec. 304.

(1) Unless a surrogacy agreement expressly provides otherwise, both of the following apply:

(a) The marriage of a surrogate after the surrogacy agreement is signed by all parties does not affect the validity of the agreement, the spouse's consent to the agreement is not required, and the spouse is not a presumed parent of a child conceived by assisted reproduction under the agreement.

(b) The dissolution, annulment, or declaration of invalidity of the surrogate's marriage, the legal separation of the surrogate, or a judgment of separate maintenance concerning the surrogate after the surrogacy agreement is signed by all parties does not affect the validity of the agreement.

(2) Unless a surrogacy agreement expressly provides otherwise, both of the following apply:

(a) The marriage of an intended parent after the surrogacy agreement is signed by all parties does not affect the validity of a surrogacy agreement, the consent of the spouse is not required, and the spouse is not, based on the agreement, a parent of a child conceived by assisted reproduction under the agreement.

(b) The dissolution, annulment, or declaration of invalidity of an intended parent's marriage, the legal separation of an intended parent, or a judgment of separate maintenance concerning an intended parent after the agreement is signed by all parties does not affect the validity of the agreement and, except as otherwise provided in sections 306, 308, and 309, the intended parent is a parent of the child.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1905 Termination of surrogacy agreement.

Sec. 305.

(1) A party to a surrogacy agreement may terminate the agreement at any time before a gamete or an embryo transfer by giving notice of termination in a record to all other parties. If a gamete or an embryo transfer does not result in a pregnancy, a party may terminate the agreement at any time before a subsequent gamete or embryo transfer.

(2) Unless a surrogacy agreement provides otherwise, on termination of the agreement under subsection (1), the parties are released from the agreement, except that each intended parent remains responsible for expenses that are reimbursable under the agreement and incurred by the surrogate through the date of termination of the surrogacy agreement.

(3) Unless there is fraud, a party is not liable to any other party for a penalty or liquidated damages for terminating a surrogacy agreement under this section.

History: 2024, Act 24, Eff. Apr. 2, 2025

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722.1906 Establishment of parent-child relationship under surrogacy agreement.

Sec. 306.

(1) Except as otherwise provided in subsection (3) and sections 307(2), 308, and 309, on birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, each intended parent is, by operation of law, a parent of the child.

(2) Except as otherwise provided in subsection (3) and sections 308 and 309, on birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, neither a surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

(3) If a child is alleged to be a genetic child of the individual who agreed to be a gestational surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the individual who agreed to be a gestational surrogate, parentage must be determined based on law of this state other than this act.

(4) Except as otherwise provided in subsection (3) and sections 307(2), 308, and 309, if, because of a clinical or laboratory error, a child conceived by assisted reproduction under a surrogacy agreement is not genetically related to an intended parent or a donor who donated to the intended parent or parents, each intended parent, and not the surrogate and the surrogate's spouse or former spouse, if any, is a parent of the child, subject to any other claim of parentage.

(5) A donor is not a parent of a child conceived by assisted reproduction under a surrogacy agreement.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1907 Parentage of deceased intended parent under surrogacy agreement.

Sec. 307.

(1) Section 306 applies to an intended parent even if the intended parent died during the period between the transfer of a gamete or embryo and the birth of the child.

(2) Except as otherwise provided in sections 308 and 309, an intended parent is not a parent of a child conceived by assisted reproduction under a surrogacy agreement if the intended parent dies before the transfer of a gamete or embryo unless both of the following apply:

(a) The surrogacy agreement provides otherwise.

(b) The transfer of a gamete or embryo occurs not later than 36 months after the death of the intended parent or the birth of the child occurs not later than 45 months after the death of the intended parent.

History: 2024, Act 24, Eff. Apr. 2, 2025

722.1908 Court judgment of parentage under surrogacy agreement.

Sec. 308.

(1) Before, on, or after the birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with this part, a party to the agreement may commence an action in the family division of the circuit court for entry of a parentage judgment. The requested parentage judgment may be issued before or after the child's birth as requested by the parties. The surrogate and all intended parents are necessary parties to the action. The complaint must be accompanied by a certification from the attorney representing the intended parent or parents and from the attorney representing the surrogate that the surrogacy agreement complies with the requirements of this part and a statement from all parties to the surrogacy agreement that they knowingly and voluntarily entered into the surrogacy agreement and that all parties are requesting the judgment of parentage. On receipt of the complaint and accompanying certifications, the court must, without holding a hearing unless the surrogate challenges the accuracy of the attorney certificates, enter a judgment of parentage that does all of the following, without additional proceedings or documentation:

(a) Declares that each intended parent is a parent of the child and orders that parental rights and duties vest immediately on the birth of the child exclusively in each intended parent.

(b) Declares that the surrogate and the surrogate's spouse or former spouse, if any, are not the parents of the child.

(c) To protect the privacy of the child and the parties, orders the court records sealed.

(d) If necessary, orders that the child be surrendered to the intended parent or parents.

(e) Awards other relief the court determines necessary and proper.

(2) The court may issue an order or judgment under subsection (1) before or after the birth of the child. The court must stay enforcement of the order or judgment until the birth of the child.

(3) Neither the state nor the department nor the hospital where the child is or is expected to be born are necessary parties to an action under subsection (1).

(4) A certificate of live birth of a child must comply with this act and must be established as provided under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

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History: 2024, Act 24, Eff. Apr. 2, 2025

722.1909 Effect and enforceability of surrogacy agreement.

Sec. 309.

(1) A surrogacy agreement that substantially complies with sections 302 and 303 is enforceable.

(2) If a child was conceived by assisted reproduction under a surrogacy agreement that does not substantially meet the material requirements of this part, a court must determine parentage consistent with the intent of the parties, taking into account the best interests of the child. Each party to the surrogacy agreement and any individual who at the time of the execution of the agreement was a spouse of a party to the agreement has standing to maintain an action to adjudicate an issue related to the enforcement of the agreement.

(3) Except as expressly provided in a surrogacy agreement or in subsection (4), if the agreement is breached by the surrogate or 1 or more intended parents, the nonbreaching party is entitled to the remedies available at law or in equity.

(4) The breach of the surrogacy agreement by 1 or more intended parents does not relieve the intended parent of the support obligations imposed by the parent and child relationship under this part.

(5) Specific performance is not a remedy available for breach by a surrogate of a provision in the agreement that the surrogate be impregnated, terminate a pregnancy, or submit to medical procedures.

(6) Except as otherwise provided in subsection (5), if an intended parent is determined to be a parent of the

child, specific performance is a remedy available for either of the following:

(a) Breach of the surrogacy agreement by a surrogate that prevents an intended parent from exercising immediately on birth of the child the full rights of parentage.

(b) Breach of the surrogacy agreement by an intended parent that prevents the intended parent's acceptance, immediately on the birth of the child, of the duties of parentage.

History: 2024, Act 24, Eff. Apr. 2, 2025

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