

# **SURROGATE PARENTING ACT**

## **Preceding §722.851**

AN ACT to establish surrogate parentage contracts as contrary to public policy and void; to prohibit surrogate parentage contracts for compensation; to provide for children conceived, gestated, and born pursuant to a surrogate parentage contract; and to provide for penalties and remedies.

## **§722.851. Short title.**

Sec. 1. This act shall be known and may be cited as the "surrogate parenting act".

## **§722.853. Definitions.**

Sec. 3. As used in this act:

(a) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother or surrogate carrier.

(b) "Developmental disability" means that term as defined in the mental health code, Act No. 258 of the Public Acts of 1974, being sections 330.1001 to 333.2106 of the Michigan Compiled Laws.

(c) "Mental illness" means that term as defined in the mental health code, Act No. 258 of the Public Acts of 1974.

(d) "Mentally retarded" means that term as defined in the mental health code, Act No. 258 of the Public Acts of 1974.

(e) "Participating party" means a biological mother, biological father, surrogate carrier, or the spouse of a biological mother, biological father, or surrogate carrier, if any.

(f) "Surrogate carrier" means the female in whom an embryo is implanted in a surrogate gestation procedure.

(g) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(h) "Surrogate mother" means a female who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination pursuant to a surrogate parentage contract.

(i) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination, or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental or custodial rights to the child. It is presumed that a contract, agreement, or arrangement in which a female agrees to conceive a child through natural or artificial insemination by a person other than her husband, or in which a female agrees to surrogate gestation, includes a provision, whether or not express, that the female will relinquish her parental or custodial rights to the child.

## **§722.855. Surrogate parentage contract as void and unenforceable.**

Sec. 5. A surrogate parentage contract is void and unenforceable as contrary to public policy.

**§722.857. Surrogate parentage contract prohibited.**

Sec. 7. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability is the surrogate mother or surrogate carrier.

Surrogate parentage contract as felony; penalty. (2) A person other than an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability who enters into, induces, arranges, procures, or otherwise assists in the formation of a contract described in subsection (1) is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

**§722.859. Surrogate parentage contract for compensation prohibited.**

Sec. 9. (1) A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract for compensation.

Surrogate parentage contract for compensation as misdemeanor; penalty. (2) A participating party other than an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability who knowingly enters into a surrogate parentage contract for compensation is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both.

Felony; penalty. (3) A person other than a participating party who induces, arranges, procures, or otherwise assists in the formation of a surrogate parentage contract for compensation is guilty of a felony punishable by a fine of not more than \$50,000.00 or imprisonment for not more than 5 years, or both.

**§722.861. Custody of child.**

Sec. 11. If a child is born to a surrogate mother or surrogate carrier pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the circuit court orders otherwise. The circuit court shall award legal custody of the child based on a determination of the best interests of the child. As used in this section, "best interests of the child" means that term as defined in section 3 of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.23 of the Michigan Compiled Laws.

**§722.863. Effective date.**

Sec. 13. This act shall take effect September 1, 1988.