



February 12, 2019

HOUSE BILL No. 1369

DIGEST OF HB 1369 (Updated February 11, 2019 12:19 pm - DI 123)

Citations Affected: IC 16-41; IC 31-9; IC 31-20; IC 35-46.

Synopsis: Assisted reproduction and gestational surrogacy. Amends provisions regarding testing of donated human sperm and eggs. Repeals current Indiana law regarding surrogacy agreements. Enacts the gestational surrogacy act, which establishes: (1) presumptions regarding parentage; (2) prerequisites for individuals who wish to enter into a gestational surrogacy agreement; (3) procedural requirements for gestational surrogacy; (4) requirements for gestational surrogacy agreements; (5) support obligations with regard to a child born as the result of gestational surrogacy; (6) remedies for breach of a gestational surrogacy agreement; and (7) provisions for determination of jurisdiction over litigation regarding a gestational surrogacy agreement. Enacts the gamete donation act, which establishes: (1) presumptions regarding parentage of a child born as the result of gamete donation; (2) prerequisites for individuals who wish to enter into a gamete donation agreement; (3) procedural requirements for gamete donation; (4) requirements for gamete donation agreements; (5) provisions regarding parentage of a child born posthumously to a gamete donor; (6) remedies for breach of a gamete donation agreement; and (7) provisions for determination of jurisdiction over litigation regarding a gamete donation agreement. Increases the maximum amount an ovum donor may be compensated for the donor's recovery time from \$4,000 to \$6,000. Requires legal counsel to have significant experience in assisted reproduction matters in certain instances. Provides that a gestational surrogacy agreement may not limit the right of the gestational surrogate to make any decision concerning the gestational
(Continued next page)

Effective: July 1, 2019.

Eberhart, Hatfield

January 14, 2019, read first time and referred to Committee on Judiciary.
February 11, 2019, amended, reported — Do Pass.

HB 1369—LS 7278/DI 119



Digest Continued

surrogate's right to terminate or continue a pregnancy. Provides that any term or condition in a gestational surrogacy agreement that contradicts or seeks to abrogate a surrogate's right to continue or terminate a pregnancy is void. Provides that the marriage of a gestational surrogate after the execution of a gestational surrogacy agreement does not affect the validity of the gestational surrogacy agreement. Provides that consent from a gestational surrogate's spouse is not required in order for the terms of the gestational surrogacy agreement to be completed or performed. Provides that a person who becomes the spouse of a gestational surrogate after the execution of a gestational surrogacy agreement is not a presumed parent of the resulting child. Provides that if a gestational surrogate initiates divorce proceedings or becomes divorced before the intended parents can establish parentage, the spouse of the gestational surrogate shall not be the presumed parent of a resulting child and shall not be required to sign, or otherwise authenticate, any establishment of parentage documentation required by a court. Provides that certain conditions must be met prior to the issuance of a pre-birth court order by a court. Requires all reproductive endocrinologists and mental health professionals engaging in gestational surrogacy matters to remain informed of recommended guidelines published by the American Society for Reproductive Medicine and the American College of Obstetricians and Gynecologists. Provides that court orders concerning gestational surrogacy do not provide a court with jurisdiction over the matters of child custody or child support if jurisdiction over the matters is not otherwise authorized. Provides that a court order concerning the establishment of parentage shall be given full faith and credit in another state if an Indiana establishment of parentage court order constitutes a signed record and otherwise complies with the laws of the other state. Exempts donor compensation for gamete donation from certain prohibitions concerning the sale of a human ovum, zygote, embryo, or fetus under certain circumstances. Defines certain terms. Makes conforming amendments.

HB 1369—LS 7278/DI 119



February 12, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1369

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-14-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. This chapter does not
3 apply to a donor who is the husband **or sexually intimate partner** of
4 the recipient.
5 SECTION 2. IC 16-41-14-3.2 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2019]: **Sec. 3.2. As used in this chapter,**
8 **"fertility clinic" has the meaning set forth in IC 31-20-1.2-6.**
9 SECTION 3. IC 16-41-14-3.3 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2019]: **Sec. 3.3. As used in this chapter,**
12 **"gamete" has the meaning set forth in IC 31-20-1.2-7.**
13 SECTION 4. IC 16-41-14-4.5 IS ADDED TO THE INDIANA
14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2019]: **Sec. 4.5. As used in this chapter,**
16 **"sexually intimate partner" has the meaning set forth in**
17 **IC 31-20-1.2-15.**

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1 SECTION 5. IC 16-41-14-4.8 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2019]: **Sec. 4.8. (a) An**
 4 **obstetrician/gynecologist may perform an anonymous donor**
 5 **insemination if the sperm used in the insemination is supplied by**
 6 **a laboratory or clinic that is:**

7 (1) registered with; and

8 (2) compliant with the regulations issued by;
 9 the federal Food and Drug Administration.

10 (b) A medical procedure related to a gamete donation in which
 11 the donor's identity is known by the intended parent must be
 12 performed at a fertility clinic that is:

13 (1) registered with; and

14 (2) compliant with the regulations issued by;
 15 the federal Food and Drug Administration.

16 SECTION 6. IC 16-41-14-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. (a) Except as
 18 provided in subsection (e) and section 7 7.1 of this chapter, a
 19 practitioner shall test each donor of semen for the following diseases
 20 before the donor provides a donation:

21 (1) Syphilis.

22 (2) Hepatitis B surface antigen and core antibody.

23 (3) HIV antibody.

24 (b) Except as provided in section 7 7.1 of this chapter, a practitioner
 25 shall test each recipient initially and at least annually as long as
 26 artificial insemination procedures are continuing for the following
 27 diseases:

28 (1) Syphilis.

29 (2) Hepatitis B surface antigen.

30 (3) HIV antibody.

31 (c) A practitioner shall perform or arrange for a confirmatory test for
 32 HIV antibody if the initial screening test for HIV antibody yields
 33 positive results.

34 (d) The practitioner shall report the information required under
 35 IC 16-41-2 when a test performed under subsection (c) confirms the
 36 presence of a disease required to be reported to the state department.

37 (e) If a practitioner states in writing that a person has a disease or
 38 will soon undergo medical treatment that may damage the person's:

39 (1) ability to donate semen; or

40 (2) semen;

41 the practitioner shall allow the person to donate semen before
 42 performing the tests required under subsection (a).



1 SECTION 7. IC 16-41-14-7 IS REPEALED [EFFECTIVE JULY 1,
2 2019]. Sec. 7: (a) Except as provided in subsection (b); a practitioner
3 may not use a donation of semen until the following conditions are met:

4 (1) The specimen has been frozen and quarantined for at least one
5 hundred eighty (180) days.

6 (2) The donor is retested after one hundred eighty (180) days for
7 the HIV antibody.

8 (b) If the recipient indicates that the donor is in a mutually
9 monogamous relationship with the recipient; the practitioner:

10 (1) shall perform the HIV test required under this chapter for the
11 donor at least annually as long as artificial insemination
12 procedures are continuing; and

13 (2) may not perform artificial insemination unless the tests for
14 HIV antibody performed under this chapter produce negative
15 results.

16 SECTION 8. IC 16-41-14-7.1 IS ADDED TO THE INDIANA
17 CODE AS A NEW SECTION TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2019]: **Sec. 7.1. A practitioner may not use
19 a donated gamete in a nonanonymous donation under IC 31-20-1.2
20 unless the practitioner complies with the testing requirements of
21 the federal Food and Drug Administration.**

22 SECTION 9. IC 16-41-14-14 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) A practitioner
24 shall keep the following:

25 (1) A record of the information required under this chapter.

26 (2) The results of tests required under sections 5 and ~~7~~ **7.1** of this
27 chapter.

28 (3) A writing required under section 5(e) of this chapter.

29 (b) Records kept under this section shall be made available to the
30 state department for inspection.

31 (c) The state department may enter and inspect a practitioner's
32 facility to investigate the premises, books, and records as necessary to
33 carry out this chapter.

34 (d) A person may not interfere with the performance of the state
35 department of health under this chapter.

36 SECTION 10. IC 16-41-14-16 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. **Except as
38 otherwise provided in this chapter**, a practitioner who:

39 (1) is responsible for conducting a screening test required under
40 this chapter; and

41 (2) knowingly or intentionally fails to conduct the screening test;
42 commits a Class A misdemeanor.



1 SECTION 11. IC 31-9-2-10, AS AMENDED BY P.L.191-2011,
 2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]: Sec. 10. "Birth parent", for purposes of IC 31-19-17
 4 through IC 31-19-25.5, means:

- 5 (1) the woman who is legally presumed under ~~Indiana law~~
 6 **IC 31-20-1.1-22** to be the mother of biological origin of an
 7 adoptee;
 8 (2) the man who is legally presumed under Indiana law to be the
 9 father of biological origin of an adoptee; or
 10 (3) a man who establishes paternity of a child born out of
 11 wedlock:
 12 (A) in a court proceeding; or
 13 (B) by executing a paternity affidavit under IC 16-37-2-2.1.

14 SECTION 12. IC 31-9-2-63 IS REPEALED [EFFECTIVE JULY 1,
 15 2019]. Sec. 63. "~~Intended biological parent~~"; for purposes of sections
 16 ~~126 and 127~~ of this chapter, means a party to a surrogate agreement
 17 who:

- 18 (1) ~~agrees to be or is genetically related to a child borne by a~~
 19 ~~surrogate; and~~
 20 (2) ~~is not the surrogate's spouse.~~

21 SECTION 13. IC 31-9-2-126 IS REPEALED [EFFECTIVE JULY
 22 1, 2019]. Sec. 126. "~~Surrogate~~"; for purposes of IC 31-20; means a
 23 party to a surrogate agreement who agrees to bear or bears a child that
 24 is genetically related to:

- 25 (1) the party who agrees to bear or bears the child and an intended
 26 biological parent;
 27 (2) an intended biological parent and a gamete donor who is not:
 28 (A) an intended biological parent; and
 29 (B) the spouse of the party who agrees to bear or bears the
 30 child; or
 31 (3) two (2) intended biological parents of the child.

32 SECTION 14. IC 31-9-2-127 IS REPEALED [EFFECTIVE JULY
 33 1, 2019]. Sec. 127. "~~Surrogate agreement~~"; for purposes of IC 31-20;
 34 means an agreement that is entered into before the birth of a child
 35 between a surrogate and one (1) or more parties and that is intended by
 36 the parties at the time that the agreement is made to induce the
 37 surrogate to relinquish care, custody, and control over the child at birth
 38 to any of the following:

- 39 (1) An intended biological parent of the child.
 40 (2) An intended biological parent of the child and another person
 41 who is not:
 42 (A) genetically related to the child; and



1 (B) the surrogate's spouse.

2 (3) Two (2) intended biological parents of the child.

3 SECTION 15. IC 31-20-1 IS REPEALED [EFFECTIVE JULY 1,
4 2019]. (Surrogate Agreements).

5 SECTION 16. IC 31-20-1.1 IS ADDED TO THE INDIANA CODE
6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]:

8 **Chapter 1.1. Indiana Gestational Surrogacy Act**

9 **Sec. 1. This chapter applies only to gestational surrogacy**
10 **agreements entered into after July 1, 2019.**

11 **Sec. 2. This chapter may be cited as the Gestational Surrogacy**
12 **Act.**

13 **Sec. 3. The purpose of this chapter is to establish consistent**
14 **standards and procedural safeguards for the protection of all**
15 **parties that agree to use Indiana as the jurisdiction for**
16 **enforcement of the gestational surrogacy agreement and to**
17 **confirm the legal status of children born as a result of these**
18 **agreements. These standards and safeguards are meant to facilitate**
19 **the use of this type of reproductive agreement in accordance with**
20 **the public policy of Indiana.**

21 **Sec. 4. As used in this chapter, "assisted reproduction" means**
22 **treatments and procedures that:**

- 23 (1) are performed by a physician; and
24 (2) are intended to achieve pregnancy.

25 **Sec. 5. As used in this chapter, "compensation" means payment**
26 **of any valuable consideration for services in excess of reasonable**
27 **medical and ancillary costs.**

28 **Sec. 6. As used in this chapter, "gamete" means a human:**

- 29 (1) sperm; or
30 (2) egg.

31 **Sec. 7. As used in this chapter, "gamete donor" means an**
32 **individual who contributes a gamete or gametes for the purpose of**
33 **in vitro fertilization or implantation in another individual.**

34 **Sec. 8. As used in this chapter, "gestational surrogacy" means**
35 **the process by which a woman attempts to carry and give birth to**
36 **a child:**

- 37 (1) that is created through in vitro fertilization; and
38 (2) to which the woman has made no genetic contribution.

39 **Sec. 9. As used in this chapter, "gestational surrogate" means**
40 **a woman who agrees to engage in a gestational surrogacy.**

41 **Sec. 10. As used in this chapter, "gestational surrogacy**
42 **agreement" means a written agreement entered into under this**



1 chapter regarding a gestational surrogacy.

2 Sec. 11. As used in this chapter, "health care provider" means
3 a person who is licensed to provide health care (as defined in
4 IC 16-36-1-1), including a medical, psychological, or counseling
5 professional.

6 Sec. 12. As used in this chapter, "intended parent" means an
7 individual who enters into a gestational surrogacy agreement
8 under which the individual intends to be the legal parent of the
9 resulting child.

10 Sec. 13. As used in this chapter, "in vitro fertilization" means all
11 medical and laboratory procedures that are necessary to effectuate
12 the extracorporeal fertilization of egg and sperm.

13 Sec. 14. As used in this chapter, "legal counsel" means a licensed
14 attorney in Indiana who has significant experience in assisted
15 reproduction matters.

16 Sec. 15. As used in this chapter, "medical evaluation" means:
17 (1) a consultation of; and
18 (2) an evaluation by;
19 a reproductive endocrinologist.

20 Sec. 16. As used in this chapter, "mental health evaluation"
21 means:
22 (1) a consultation with; and
23 (2) an evaluation by;
24 a mental health professional who has knowledge of the mental
25 health aspects of gestational surrogacy.

26 Sec. 17. As used in this chapter, "parent-child relationship"
27 means the legal relationship between a child and a parent of the
28 child.

29 Sec. 18. As used in this chapter, "physician" means a person
30 licensed under IC 25-22.5.

31 Sec. 19. As used in this chapter, "preembryo" means a fertilized
32 egg at less than fourteen (14) days of development.

33 Sec. 20. As used in this chapter, "preembryo transfer" means all
34 medical and laboratory procedures that are necessary to effectuate
35 the transfer of a preembryo into a gestational surrogate's uterine
36 cavity.

37 Sec. 21. As used in this chapter, "reproductive endocrinologist"
38 means a physician who has completed an accredited fellowship in
39 reproductive endocrinology and infertility.

40 Sec. 22. (a) Except as provided in this chapter:

41 (1) the woman who gives birth to a child is presumed to be the
42 legal parent of the child for purposes of Indiana law; and



- 1 (2) if the woman is married, her spouse is presumed to be the
2 joint legal parent of the child.
- 3 (b) Immediately upon the birth of a child resulting from a
4 gestational surrogacy that meets the requirements of this chapter:
5 (1) the intended parent is the legal parent of the child for
6 purposes of Indiana law;
7 (2) the child is considered the legitimate child of the intended
8 parent for purposes of Indiana law;
9 (3) parental rights vest in the intended parent;
10 (4) sole custody of the child rests with the intended parent;
11 and
12 (5) neither the gestational surrogate nor her spouse, if any,
13 are the parents of the child for purposes of Indiana law.
- 14 (c) If, due to a laboratory error, a gestational surrogacy that
15 meets the requirements of this chapter results in the birth of a child
16 that is not genetically related to either of the intended parents, the
17 intended parents are the parents of the child for purposes of
18 Indiana law unless a court of competent jurisdiction determines
19 otherwise.
- 20 (d) The parties to a gestational surrogacy agreement shall
21 assume the rights and obligations of subsections (b) and (c) if:
22 (1) the gestational surrogate meets the requirements of section
23 23(a) of this chapter;
24 (2) the intended parent meets the requirements of section
25 23(b) of this chapter; and
26 (3) the gestational surrogacy meets the requirements of
27 section 24 of this chapter.
- 28 (e) If a child is born as a result of a gestational surrogacy that
29 does not meet the requirements of this chapter, a court of
30 competent jurisdiction shall determine parentage of the child based
31 on evidence of the parties' intent.
- 32 Sec. 23. (a) At the time a gestational surrogacy agreement is
33 executed, the gestational surrogate must:
34 (1) be at least twenty-one (21) years of age;
35 (2) have given birth to at least one (1) child;
36 (3) have completed a medical evaluation by a reproductive
37 endocrinologist or a qualified individual supervised by a
38 reproductive endocrinologist;
39 (4) have completed a mental health evaluation;
40 (5) have:
41 (A) retained legal counsel that is separate and independent
42 from legal counsel representing the intended parent; and



- 1 (B) been advised by the gestational surrogate's retained
 2 legal counsel regarding the terms of the gestational
 3 surrogacy agreement and the potential legal consequences
 4 of the gestational surrogacy; and
 5 (6) have or agree to obtain a health insurance policy that:
 6 (A) covers major medical treatments and hospitalization;
 7 and
 8 (B) has a term that extends through the duration of the
 9 expected pregnancy and for eight (8) weeks after the birth
 10 of the child.

11 The policy of insurance required under subdivision (6) may be
 12 procured by the intended parent on behalf of the gestational
 13 surrogate under the gestational surrogacy agreement.

14 (b) At the time a gestational surrogacy agreement is executed,
 15 the intended parent must:

- 16 (1) be at least twenty-one (21) years of age;
 17 (2) have a medical need for the gestational surrogacy as
 18 evidenced by an affidavit from a relevant and qualified
 19 reproductive endocrinologist physician;
 20 (3) have completed a mental health consultation; and
 21 (4) have:
 22 (A) retained legal counsel that is separate and independent
 23 from legal counsel representing the gestational surrogate;
 24 and
 25 (B) been advised by the intended parent's retained legal
 26 counsel regarding the terms of the gestational surrogacy
 27 agreement and the potential legal consequences of the
 28 gestational surrogacy.

29 Sec. 24. A gestational surrogacy must meet the following
 30 requirements:

- 31 (1) The gestational surrogacy agreement must meet the
 32 requirements of section 25 of this chapter.
 33 (2) The gestational surrogate and the intended parent must be
 34 represented by separate and independent legal counsel in all
 35 matters concerning the gestational surrogacy and the
 36 gestational surrogacy agreement.
 37 (3) The:
 38 (A) gestational surrogate must sign a written
 39 acknowledgment that the gestational surrogate received;
 40 and
 41 (B) intended parent or parents must sign a written
 42 acknowledgment that the intended parent or parents



1 received;
 2 information about the legal, financial, and contractual rights,
 3 expectations, penalties, and obligations of the surrogacy
 4 agreement.

5 (4) If the gestational surrogacy agreement provides for the
 6 payment of compensation to the gestational surrogate, the
 7 compensation must be:

8 (A) placed in escrow with an independent escrow agent
 9 that is not held by the legal counsel for any party to the
 10 gestational surrogacy agreement; and

11 (B) placed in escrow under clause (A) before the
 12 gestational surrogate's commencement of any medical
 13 procedure in furtherance of the gestational surrogacy
 14 (other than medical or mental health evaluations necessary
 15 to determine whether the gestational surrogate meets the
 16 requirements of section 23(a) of this chapter).

17 **Sec. 25. (a) A gestational surrogacy agreement must:**

18 (1) be in writing;

19 (2) be executed before the commencement of any medical
 20 procedures in furtherance of the gestational surrogacy (other
 21 than medical or mental health evaluations or consultations
 22 necessary to determine whether the parties meet the
 23 requirements of section 23 of this chapter);

24 (3) be executed by:

25 (A) a gestational surrogate who meets the requirements of
 26 section 23(a) of this chapter;

27 (B) the gestational surrogate's spouse, if the gestational
 28 surrogate is married;

29 (C) an intended parent who meets the eligibility
 30 requirements of section 23(b) of this chapter; and

31 (D) the intended parent's spouse, if the intended parent is
 32 married;

33 (4) be witnessed by two (2) competent adults; and

34 (5) include the following provisions:

35 (A) The express written agreement of the gestational
 36 surrogate to:

37 (i) undergo preembryo transfer and attempt to carry and
 38 give birth to the child; and

39 (ii) surrender custody of the child to the intended parent
 40 immediately upon the birth of the child.

41 (B) If the gestational surrogate is married, the express
 42 agreement of her spouse to:



- 1 (i) undertake the obligations imposed on the gestational
- 2 surrogate under the terms of the gestational surrogacy
- 3 agreement; and
- 4 (ii) surrender custody of the child to the intended parent
- 5 immediately upon the birth of the child.
- 6 (C) The right of the gestational surrogate to utilize the
- 7 services of an obstetrician physician of her choosing, after
- 8 consultation with the intended parents, to provide her care
- 9 during the pregnancy.
- 10 (D) The express written agreement of the intended parent
- 11 to:
- 12 (i) accept custody of the child; and
- 13 (ii) assume sole responsibility for the support of the
- 14 child;
- 15 immediately upon the child's birth, regardless of the
- 16 number, gender, or mental or physical condition of the
- 17 child or children.
- 18 (b) A gestational surrogacy agreement may include one (1) or
- 19 more of the following provisions:
- 20 (1) The gestational surrogate's agreement to undergo all
- 21 medical exams, treatments, and fetal monitoring procedures
- 22 recommended by a physician for the success of the pregnancy.
- 23 (2) The gestational surrogate's agreement to abstain from any
- 24 activities that the intended parent or a physician reasonably
- 25 believes to be harmful to the pregnancy and future health of
- 26 the child, including:
- 27 (A) smoking;
- 28 (B) drinking alcohol;
- 29 (C) using nonprescribed drugs;
- 30 (D) using prescription drugs not authorized by a physician
- 31 who is aware of the gestational surrogate's pregnancy;
- 32 (E) exposure to radiation; or
- 33 (F) any other activities proscribed by a health care
- 34 provider.
- 35 (3) The agreement of the intended parent to pay the
- 36 gestational surrogate reasonable compensation.
- 37 (4) The agreement of the intended parent to pay for or
- 38 reimburse the gestational surrogate for reasonable expenses
- 39 (including medical, legal, or other professional expenses)
- 40 related to the gestational surrogacy and the gestational
- 41 surrogacy agreement.
- 42 **Sec. 26. A gestational surrogacy agreement may not limit the**



1 right of the gestational surrogate to make any decision concerning
2 the gestational surrogate's right to terminate or continue a
3 pregnancy. Any term or condition in a gestational surrogacy
4 agreement that contradicts or seeks to abrogate this section is void.

5 Sec. 27. (a) The marriage of a gestational surrogate after the
6 execution of a gestational surrogacy agreement does not affect the
7 validity of the gestational surrogacy agreement, and consent from
8 the gestational surrogate's spouse is not required in order for the
9 terms of the gestational surrogacy agreement to be completed or
10 performed.

11 (b) A person who becomes the spouse of a gestational surrogate
12 after the execution of the gestational surrogacy agreement is not a
13 presumed parent of the resulting child.

14 Sec. 28. If a gestational surrogate initiates divorce proceedings
15 or becomes divorced before the intended parents can establish
16 parentage, the spouse of the gestational surrogate shall not be the
17 presumed parent of a resulting child and shall not be required to
18 sign, or otherwise authenticate, any establishment of parentage
19 documentation required by a court.

20 Sec. 29. (a) An individual who is considered to be the parent of
21 a child under section 22 of this chapter is obligated to support the
22 child.

23 (b) The breach of a gestational surrogacy agreement by the
24 intended parent does not relieve the intended parent of the support
25 obligations imposed by this chapter.

26 (c) A gamete donor is liable for child support only if the gamete
27 donor fails to comply with IC 31-20-1.2.

28 Sec. 30. For purposes of this chapter, a parent-child relationship
29 for a child born, or intending to be born, in Indiana is considered
30 established prior to the birth of a child through gestational
31 surrogacy if, in addition to the gestational surrogacy satisfying the
32 requirements of this chapter, the following conditions are met:

33 (1) The legal counsel representing a party to the gestational
34 surrogacy agreement certifies that the parties to the
35 gestational surrogacy agreement intend to satisfy the
36 requirements of this chapter with respect to the child.

37 (2) A copy of the gestational surrogacy agreement is
38 submitted to an appropriate court of competent jurisdiction
39 under section 37 of this chapter.

40 The conditions described under this section must be met before the
41 issuance of a pre-birth court order by a court with competent
42 jurisdiction.



1 **Sec. 31. Except as provided in this chapter, an individual is not**
2 **civilly or criminally liable for non-negligent actions taken under**
3 **this chapter.**

4 **Sec. 32. (a) Noncompliance by a party to a gestational surrogacy**
5 **agreement occurs when the party materially breaches a provision**
6 **of the gestational surrogacy agreement.**

7 **(b) Except as otherwise provided in this chapter, in the event of**
8 **a party's noncompliance with the requirements of this chapter, a**
9 **court of competent jurisdiction shall determine the respective**
10 **rights and obligations of the parties.**

11 **(c) There is no specific performance remedy for a breach by the**
12 **gestation surrogate of a gestation surrogacy agreement term that**
13 **requires the gestational surrogate to:**

14 **(1) be impregnated;**

15 **(2) terminate a pregnancy; or**

16 **(3) carry a pregnancy to term.**

17 **(d) Except as expressly provided in the gestational surrogacy**
18 **agreement, the intended parent is entitled to all remedies available**
19 **at law or equity.**

20 **(e) Except as expressly provided in the gestational surrogacy**
21 **agreement, the gestational surrogate is entitled to all remedies**
22 **available at law or equity.**

23 **Sec. 33. All reproductive endocrinologists and mental health**
24 **professionals engaging in gestational surrogacy matters shall**
25 **remain informed of the recommended guidelines published by the**
26 **American Society for Reproductive Medicine and the American**
27 **College of Obstetricians and Gynecologists.**

28 **Sec. 34. If any provision of this chapter or its application to any**
29 **person or circumstance is held invalid, the invalidity of that**
30 **provision or application does not affect other provisions or**
31 **applications of this chapter that can be given effect without the**
32 **invalid provision or application.**

33 **Sec. 35. An action to:**

34 **(1) invalidate a gestational surrogacy that meets the**
35 **requirements of this chapter; or**

36 **(2) challenge rights of parentage established under this**
37 **chapter;**

38 **may not be commenced later than twelve (12) months after the date**
39 **of birth of a child who is born as a result of the gestational**
40 **surrogacy.**

41 **Sec. 36. Unless the court orders otherwise, a petition and any**
42 **other document related to a gestational surrogacy under this**



1 chapter that is filed with a court is confidential under Indiana
 2 Administrative Rule 9. Filed documents are not open to inspection
 3 by any person other than:

- 4 (1) the parties to the proceeding;
- 5 (2) the parties' legal counsel; and
- 6 (3) the vital statistics division of the state department of health
 7 for the purpose of receiving the court order and issuing a
 8 birth certificate;

9 except as necessary under exigent circumstances.

10 Sec. 37. (a) Any establishment of parentage proceeding when the
 11 child is, or is intended to be, born in Indiana or a gestational
 12 surrogacy agreement enforcement proceeding may be brought in
 13 an Indiana county:

- 14 (1) in which the child resides or will reside;
- 15 (2) in which the gestational surrogate resides;
- 16 (3) in which the intended parent resides;
- 17 (4) in which a:
 - 18 (A) medical evaluation or procedure; or
 - 19 (B) mental health evaluation or consultation;
- 20 under the gestational surrogacy agreement occurred; or
- 21 (5) to which all parties agree in the gestational surrogacy
 22 agreement;

23 not later than twelve (12) months after the birth of a child who is
 24 born as a result of the gestational surrogacy.

25 (b) An Indiana court conducting a proceeding under this
 26 chapter has exclusive, continuing jurisdiction over all matters
 27 arising out of the gestational surrogacy. Nothing in this chapter
 28 shall be construed to give a court jurisdiction over a child custody
 29 or child support action if jurisdiction over the issues of child
 30 custody or child support is not otherwise authorized.

31 Sec. 38. An Indiana court order concerning the establishment of
 32 parentage shall be given full faith and credit in another state if the
 33 establishment of parentage court order constitutes a signed record
 34 and otherwise complies with the laws of the other state.

35 SECTION 17. IC 31-20-1.2 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2019]:

38 **Chapter 1.2. Indiana Gamete Donation Act**

39 Sec. 1. (a) This chapter applies only to gamete donation
 40 agreements entered into after July 1, 2019.

41 (b) Except as otherwise provided in this chapter, this chapter
 42 does not apply to the birth of a child:



- 1 (1) conceived by means of sexual intercourse or home
- 2 insemination; or
- 3 (2) born as a result of a gestational surrogacy that meets the
- 4 requirements of IC 31-20-1.1.
- 5 **Sec. 2.** This chapter may be cited as the Gamete Donation Act.
- 6 **Sec. 3.** The purpose of this chapter is to establish consistent
- 7 standards and procedural safeguards for the protection of all
- 8 parties involved in a gamete donation agreement in Indiana and to
- 9 confirm the legal status of children born as a result of these
- 10 agreements. These standards and safeguards are meant to facilitate
- 11 the use of this type of reproductive agreement in accordance with
- 12 the public policy of Indiana.
- 13 **Sec. 4.** As used in this chapter, "assisted reproduction" means
- 14 treatments and procedures that:
- 15 (1) are performed by a physician; and
- 16 (2) are intended to achieve pregnancy.
- 17 **Sec. 5.** As used in this chapter, "compensation" means payment
- 18 of any valuable consideration for services in excess of reasonable
- 19 medical and ancillary costs.
- 20 **Sec. 6.** As used in this chapter, "fertility clinic" means a medical
- 21 clinic that:
- 22 (1) employs a licensed physician who is qualified to perform
- 23 assisted reproduction; and
- 24 (2) complies with guidelines for gamete donation issued by the
- 25 federal Food and Drug Administration.
- 26 **Sec. 7.** As used in this chapter, "gamete" means either a sperm
- 27 or an egg.
- 28 **Sec. 8.** As used in this chapter, "gamete donor" means an
- 29 individual who contributes a gamete or gametes for the purpose of
- 30 in vitro fertilization, insemination, or implantation in another
- 31 individual.
- 32 **Sec. 9.** As used in this chapter, "intended parent" means an
- 33 individual who enters into an agreement under this chapter under
- 34 which the individual intends to be the legal parent of the resulting
- 35 child.
- 36 **Sec. 10.** As used in this chapter, "in vitro fertilization" means all
- 37 medical and laboratory procedures that are necessary to effectuate
- 38 the extracorporeal fertilization of egg and sperm.
- 39 **Sec. 11.** As used in this chapter, "legal counsel" means a licensed
- 40 attorney in Indiana that specializes in assisted reproduction
- 41 matters.
- 42 **Sec. 12.** As used in this chapter, "medical evaluation" means:



- 1 (1) a consultation of; and
 2 (2) an evaluation by;
 3 a physician.
- 4 Sec. 13. As used in this chapter, "mental health evaluation"
 5 means:
 6 (1) a consultation of; and
 7 (2) an evaluation by;
 8 a mental health professional.
- 9 Sec. 14. As used in this chapter, "physician" means a person
 10 licensed under IC 25-22.5.
- 11 Sec. 15. As used in this chapter, "sexually intimate partner"
 12 means, with regard to an individual, another individual with whom
 13 the individual engages in sexual activity.
- 14 Sec. 16. Except as provided in this chapter:
 15 (1) a gamete donor is not a parent of a child conceived by
 16 means of assisted reproduction;
 17 (2) an intended parent is not considered a gamete donor if:
 18 (A) the intended parent contributes the intended parent's
 19 genetic material to a physician to be used by the other
 20 intended parent; and
 21 (B) the intended parent is:
 22 (i) married to; or
 23 (ii) a sexually intimate partner of;
 24 the other intended parent; and
 25 (3) the legal parentage rights and responsibilities of the
 26 intended parent shall be presumed if the intended parent
 27 consents to the assisted reproduction.
- 28 Sec. 17. (a) A gamete donor must:
 29 (1) be at least twenty-one (21) years of age;
 30 (2) have completed a medical evaluation by a reproductive
 31 endocrinologist;
 32 (3) have completed an in-person mental health evaluation;
 33 (4) have:
 34 (A) retained legal counsel that is separate and independent
 35 from legal counsel representing the intended parent; and
 36 (B) been advised by the gamete donor's retained legal
 37 counsel regarding the terms of the gamete donation
 38 agreement and the potential legal consequences of the
 39 gamete donation.
- 40 (b) An intended parent must:
 41 (1) have completed a mental health consultation; and
 42 (2) have:



- 1 (A) retained legal counsel that is separate and independent
- 2 from legal counsel representing the gamete donor; and
- 3 (B) been advised by the intended parent's retained legal
- 4 counsel regarding the terms of the gamete donation
- 5 agreement and the potential legal consequences of the
- 6 gamete donation.
- 7 **Sec. 18. (a) A gamete donation agreement must:**
- 8 (1) be in writing;
- 9 (2) be executed before the gamete donation;
- 10 (3) be executed by:
- 11 (A) a gamete donor who meets the requirements of section
- 12 17(a) of this chapter;
- 13 (B) the gamete donor's spouse, if the gamete donor is
- 14 married;
- 15 (C) an intended parent who meets the eligibility
- 16 requirements of section 17(b) of this chapter; and
- 17 (D) the intended parent's spouse, if the intended parent is
- 18 married; and
- 19 (4) be witnessed by two (2) competent adults.
- 20 (b) An anonymous gamete donation agreement must be executed
- 21 as follows:
- 22 (1) Each party and witness shall sign:
- 23 (A) one (1) signature page with his or her full legal name;
- 24 and
- 25 (B) one (1) signature page with a generic title that does not
- 26 disclose his or her identity.
- 27 (2) Executed copies of the agreement must be distributed as
- 28 follows:
- 29 (A) A fully executed copy of the agreement with a
- 30 signature page described in subdivision (1)(B) must be
- 31 distributed to each of the parties.
- 32 (B) Each legal counsel or fertility clinic shall retain a copy
- 33 of the agreement with a signature page described in
- 34 subdivision (1)(A).
- 35 **Sec. 19. (a) If:**
- 36 (1) a gamete donor and an intended parent have entered into
- 37 a written legal agreement under which the gamete donor
- 38 relinquishes all rights and responsibilities to any child
- 39 resulting from the gamete donation; and
- 40 (2) the gamete donor meets the requirements of section 17(a)
- 41 of this chapter and the intended parent meets the
- 42 requirements of section 17(b) of this chapter;



1 the intended parent is the legal parent of a child whose birth results
2 from the gamete donation.

3 (b) If a child is born as the result of a gamete donation and a
4 court of competent jurisdiction finds that:

5 (1) the requirements of subsection (a) were not met; and

6 (2) section 20 of this chapter is inapplicable;

7 the court shall determine parentage of the child based on evidence
8 of the parties' intent at the time of the gamete donation.

9 Sec. 20. (a) If an individual:

10 (1) makes an anonymous gamete donation to a facility that is:

11 (A) registered with; and

12 (B) compliant with guidelines and regulations issued by;
13 the federal Food and Drug Administration;

14 (2) does not designate an intended parent at the time of the
15 gamete donation; and

16 (3) relinquishes his or her parental rights in a written
17 statement provided at the time of the gamete donation to the
18 facility to which the individual donates his or her gametes;

19 the intended parent is the legal parent of any child resulting from
20 the gamete donation, and the gamete donor's relinquishment is
21 legally enforceable.

22 (b) If a child is born as the result of an anonymous gamete
23 donation and a court of competent jurisdiction finds that the
24 requirements of subsection (a) were not met, the court shall
25 determine parentage of the child based on evidence of the parties'
26 intent at the time of the gamete donation.

27 Sec. 21. (a) An intended parent or gamete donor may withdraw
28 consent to the use of his or her gametes if the withdrawal of
29 consent is made in a writing or legal pleading with notice to the
30 other parties to the gamete donation agreement.

31 (b) An intended parent who withdraws consent under this
32 section before insemination, fertilization, or embryo transfer is not
33 a parent of a child resulting from the insemination, fertilization, or
34 embryo transfer.

35 (c) If a gamete donor withdraws consent under this section
36 before insemination, fertilization, or embryo transfer, the intended
37 parent is not the parent of a child resulting from the insemination,
38 fertilization, or embryo transfer.

39 (d) If:

40 (1) there is no designated intended parent at the time of a
41 gamete donation; and

42 (2) the gamete donor withdraws consent to the use of the



1 donor's gametes;
 2 the gamete donor may be liable to the fertility clinic to which the
 3 gamete donation was made for costs of gamete retrieval, storage
 4 costs of the gametes, and any compensation the gamete donor
 5 received from the fertility clinic for the donation.

6 Sec. 22. (a) If an individual:

7 (1) consents in writing to posthumously be the parent of any
 8 child born of the individual's gametes; and

9 (2) dies before the insemination of the individual's gametes or
 10 embryo transfer;

11 the individual is a parent of any child born of the individual's
 12 gametes not later than forty-eight (48) months after the
 13 individual's death.

14 (b) The rights of a child born to an individual posthumously
 15 under subsection (a) to an inheritance or to property under an
 16 instrument are governed by IC 29.

17 Sec. 23. The following must be proved by clear and convincing
 18 evidence:

19 (1) Parentage under section 16 or 19 of this chapter.

20 (2) A withdrawal of consent under section 21 of this chapter.

21 (3) The nonexistence of a parent-child relationship under
 22 section 24 of this chapter.

23 Sec. 24. An action to declare the nonexistence of a parent-child
 24 relationship under this chapter is barred unless it is brought not
 25 more than ninety (90) days after the birth of the child.

26 Sec. 25. (a) A proceeding under this chapter may be brought in
 27 an Indiana county:

28 (1) in which the gamete donor resides;

29 (2) in which the intended parent resides;

30 (3) in which a:

31 (A) medical evaluation or procedure; or

32 (B) mental health evaluation or consultation;

33 occurred under this chapter; or

34 (4) to which all parties agree in the gamete donation
 35 agreement, if the gamete donor or intended parent is a
 36 resident of Indiana or the donation took place in Indiana.

37 (b) An Indiana court conducting a proceeding under this
 38 chapter has exclusive, continuing jurisdiction over all matters
 39 arising out of a gamete donation agreement during the period:

40 (1) beginning with the execution of the gamete donation
 41 agreement; and

42 (2) ending ninety (90) days after the birth of the child



1 **conceived by assisted reproduction under the gamete donation**
 2 **agreement.**

3 SECTION 18. IC 35-46-5-3, AS AMENDED BY P.L.113-2018,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]: Sec. 3. (a) As used in this section, "lethal fetal
 6 anomaly" means a fetal condition diagnosed before birth that, if the
 7 pregnancy results in a live birth, will with reasonable certainty result
 8 in the death of the child not more than three (3) months after the child's
 9 birth.

10 (b) As used in this section, "physician" means an individual who:

11 (1) is licensed to practice medicine in:

12 (A) Indiana under IC 25-22.5; or

13 (B) another state in the United States in which the individual
 14 is providing medical services;

15 (2) is board certified in obstetrics and gynecology; and

16 (3) oversees medical services related to ovum cryopreservation.

17 (c) As used in this section, "qualified egg bank" means:

18 (1) a fertility clinic or similar medical facility that:

19 (A) is located in the United States;

20 (B) is accredited by an entity approved by:

21 (i) the medical licensing board, if the fertility clinic or
 22 facility is located in Indiana; or

23 (ii) the authorizing state agency or licensing board in the
 24 state in which the fertility clinic or facility is located;

25 (C) is registered under 21 CFR 1271 with the United States
 26 Food and Drug Administration; and

27 (D) is owned by, employs, contracts with, or is affiliated with
 28 at least one (1) physician who performs medical services
 29 related to ovum cryopreservation at the fertility clinic or
 30 facility; or

31 (2) an entity whose primary business purpose includes the
 32 facilitation of in vitro fertilization using cryopreserved ova and
 33 that is registered under 21 CFR 1271 with the United States Food
 34 and Drug Administration.

35 (d) Except as provided in subsection (e), a person who knowingly
 36 or intentionally purchases or sells a human ovum, zygote, embryo, or
 37 fetus commits unlawful transfer of a human organism, a Level 5 felony.

38 (e) This section does not apply to the following:

39 (1) The payment to or receipt by a woman donor of an ovum of an
 40 amount for:

41 (A) earnings lost due to absence from employment;

42 (B) travel expenses;



- 1 (C) hospital expenses; **and**
 2 (D) medical expenses. **and**
 3 ~~(E) recovery time in an amount not to exceed four thousand~~
 4 ~~dollars (\$4,000);~~
 5 concerning a treatment or procedure, including ovum
 6 cryopreservation, to enhance human reproductive capability
 7 through in vitro fertilization, gamete intrafallopian transfer, or
 8 zygote intrafallopian transfer.
 9 **(2) The payment of compensation to a donor, if the following**
 10 **conditions are met:**
 11 **(A) The payment is not contingent upon the quantity of the**
 12 **gametes retrieved.**
 13 **(B) The payment is not contingent upon the purported**
 14 **quality or genome related traits of the gamete donor.**
 15 **(C) The payment is not contingent upon actual genotypic**
 16 **or phenotypic characteristics of the gamete donor or of the**
 17 **child.**
 18 **(D) The payment is reasonable as determined by industry**
 19 **standards and has been negotiated in good faith between**
 20 **the parties, if applicable.**
 21 ~~(2)~~ **(3) The payment to or receipt by a qualified egg bank of an**
 22 **amount for:**
 23 (A) the retrieval of a human ovum;
 24 (B) the cryopreservation of a human ovum;
 25 (C) the transportation of a human ovum; or
 26 (D) any other aspect of performing or facilitating services
 27 related to a treatment or procedure to enhance human
 28 reproductive capability through in vitro fertilization.
 29 ~~(3)~~ **(4) The following types of stem cell research:**
 30 (A) Adult stem cell.
 31 (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as
 32 the biological parent has given written consent for the use of
 33 the fetal stem cells.
 34 ~~(4)~~ **(5) The transfer or receipt of a fetus if:**
 35 (A) the fetus was diagnosed with a lethal fetal anomaly and
 36 written medical documentation verifies the diagnosis; and
 37 (B) a biological parent has requested, in writing, the transfer
 38 of the fetus for purposes of an autopsy.
 39 (f) Any person who recklessly, knowingly, or intentionally uses a
 40 human embryo created with an ovum provided to a qualified egg bank
 41 under this section for purposes of embryonic stem cell research
 42 commits unlawful use of an embryo, a Level 5 felony.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1369, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 16 through 25, begin a new paragraph and insert:

"SECTION 8. IC 16-41-14-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 7.1. A practitioner may not use a donated gamete in a nonanonymous donation under IC 31-20-1.2 unless the practitioner complies with the testing requirements of the federal Food and Drug Administration.**"

Page 4, line 10, delete "IC 31-20-1.1-21" and insert "IC 31-20-1.1-22".

Page 5, delete lines 17 through 23, begin a new paragraph and insert:

"Sec. 3. The purpose of this chapter is to establish consistent standards and procedural safeguards for the protection of all parties that agree to use Indiana as the jurisdiction for enforcement of the gestational surrogacy agreement and to confirm the legal status of children born as a result of these agreements. These standards and safeguards are meant to facilitate the use of this type of reproductive agreement in accordance with the public policy of Indiana."

Page 6, delete lines 16 through 29, begin a new paragraph and insert:

"Sec. 14. As used in this chapter, "legal counsel" means a licensed attorney in Indiana who has significant experience in assisted reproduction matters.

Sec. 15. As used in this chapter, "medical evaluation" means:

- (1) a consultation of; and**
- (2) an evaluation by;**

a reproductive endocrinologist.

Sec. 16. As used in this chapter, "mental health evaluation" means:

- (1) a consultation with; and**
- (2) an evaluation by;**

a mental health professional who has knowledge of the mental health aspects of gestational surrogacy."

Page 6, between lines 40 and 41, begin a new paragraph and insert:

"Sec. 21. As used in this chapter, "reproductive endocrinologist"



means a physician who has completed an accredited fellowship in reproductive endocrinology and infertility."

Page 6, line 41, delete "21." and insert "22."

Page 7, line 24, delete "22(a)" and insert "23(a)".

Page 7, line 26, delete "22(b)" and insert "23(b)".

Page 7, line 28, delete "23" and insert "24".

Page 7, line 33, delete "22." and insert "23."

Page 7, line 38, delete "endocrinologist;" and insert **"endocrinologist or a qualified individual supervised by a reproductive endocrinologist;"**.

Page 7, line 39, delete "an in-person" and insert "a".

Page 8, between lines 15 and 16, begin a new line block indented and insert:

"(1) be at least twenty-one (21) years of age;".

Page 8, line 16, delete "(1)" and insert "(2)".

Page 8, line 19, delete "(2)" and insert "(3)".

Page 8, line 20, delete "(3)" and insert "(4)".

Page 8, line 28, delete "23." and insert "24."

Page 8, line 31, delete "24" and insert "25".

Page 8, line 32, delete "or".

Page 8, line 33, delete "parents".

Page 9, line 15, delete "22(a)" and insert "23(a)".

Page 9, line 16, delete "24." and insert "25."

Page 9, line 22, delete "22" and insert "23".

Page 9, line 25, delete "22(a)" and insert "23(a)".

Page 9, line 29, delete "22(b)" and insert "23(b)".

Page 10, line 14, delete "birth." and insert **"birth, regardless of the number, gender, or mental or physical condition of the child or children."**

Page 10, between lines 38 and 39, begin a new paragraph and insert:

"Sec. 26. A gestational surrogacy agreement may not limit the right of the gestational surrogate to make any decision concerning the gestational surrogate's right to terminate or continue a pregnancy. Any term or condition in a gestational surrogacy agreement that contradicts or seeks to abrogate this section is void.

Sec. 27. (a) The marriage of a gestational surrogate after the execution of a gestational surrogacy agreement does not affect the validity of the gestational surrogacy agreement, and consent from the gestational surrogate's spouse is not required in order for the terms of the gestational surrogacy agreement to be completed or performed.

(b) A person who becomes the spouse of a gestational surrogate



after the execution of the gestational surrogacy agreement is not a presumed parent of the resulting child.

Sec. 28. If a gestational surrogate initiates divorce proceedings or becomes divorced before the intended parents can establish parentage, the spouse of the gestational surrogate shall not be the presumed parent of a resulting child and shall not be required to sign, or otherwise authenticate, any establishment of parentage documentation required by a court."

Page 10, line 39, delete "25." and insert "29."

Page 10, line 40, delete "21" and insert "22".

Page 11, line 5, delete "26." and insert "30."

Page 11, line 5, after "relationship" insert "**for a child born, or intending to be born, in Indiana**".

Page 11, line 8, delete "chapter:" and insert "**chapter, the following conditions are met:**".

Page 11, line 9, delete "(1) the" and insert "**(1) The**".

Page 11, line 12, delete "child; and" and insert "**child**".

Page 11, line 13, delete "(2) a" and insert "**(2) A**".

Page 11, line 14, delete "a" and insert "**an appropriate**".

Page 11, line 14, delete "33" and insert "37".

Page 11, between lines 15 and 16, begin a new line blocked left and insert:

"The conditions described under this section must be met before the issuance of a pre-birth court order by a court with competent jurisdiction."

Page 11, line 16, delete "27." and insert "31."

Page 11, line 19, delete "28." and insert "32."

Page 11, delete lines 26 through 28, begin a new paragraph and insert:

"(c) There is no specific performance remedy for a breach by the gestation surrogate of a gestation surrogacy agreement term that requires the gestational surrogate to:

- (1) be impregnated;**
- (2) terminate a pregnancy; or**
- (3) carry a pregnancy to term."**

Page 11, delete lines 35 through 39, begin a new paragraph and insert:

"Sec. 33. All reproductive endocrinologists and mental health professionals engaging in gestational surrogacy matters shall remain informed of the recommended guidelines published by the American Society for Reproductive Medicine and the American College of Obstetricians and Gynecologists."



Page 11, line 40, delete "30." and insert "34."

Page 12, line 3, delete "31." and insert "35."

Page 12, line 11, delete "32." and insert "36."

Page 12, delete lines 22 through 23, begin a new paragraph and insert:

"Sec. 37. (a) Any establishment of parentage proceeding when the child is, or is intended to be, born in Indiana or a gestational surrogacy agreement enforcement proceeding may be brought in an Indiana county:"

Page 12, line 37, after "surrogacy." insert **"Nothing in this chapter shall be construed to give a court jurisdiction over a child custody or child support action if jurisdiction over the issues of child custody or child support is not otherwise authorized."**

Sec. 38. An Indiana court order concerning the establishment of parentage shall be given full faith and credit in another state if the establishment of parentage court order constitutes a signed record and otherwise complies with the laws of the other state."

Page 19, line 4, after "expenses;" insert **"and"**.

Page 19, line 5, delete "expenses;" and insert "expenses."

Page 19, line 5, strike "and".

Page 19, line 6, strike "(E) recovery time in an amount not to exceed".

Page 19, line 6, delete "six".

Page 19, line 6, strike "thousand".

Page 19, line 7, strike "dollars".

Page 19, line 7, delete "\$6,000);".

Page 19, between lines 11 and 12, begin a new line block indented and insert:

"(2) The payment of compensation to a donor, if the following conditions are met:

(A) The payment is not contingent upon the quantity of the gametes retrieved.

(B) The payment is not contingent upon the purported quality or genome related traits of the gamete donor.

(C) The payment is not contingent upon actual genotypic or phenotypic characteristics of the gamete donor or of the child.

(D) The payment is reasonable as determined by industry standards and has been negotiated in good faith between the parties, if applicable."

Page 19, line 12, strike "(2)" and insert "(3)".



Page 19, line 20, strike "(3)" and insert "(4)".

Page 19, line 25, strike "(4)" and insert "(5)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1369 as introduced)

TORR

Committee Vote: yeas 9, nays 1.

