

SENATE CONCURRENT RESOLUTION NO. 81

BY SENATOR MORRELL AND REPRESENTATIVE BROSSETT

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study and make recommendations on the implementation of laws in Louisiana relative to surrogacy agreements and to report its findings to the legislature.

WHEREAS, pursuant to R.S. 9:2713, enacted in 1987, surrogacy agreements are considered absolutely null and shall be void and unenforceable as contrary to public policy in Louisiana; and

WHEREAS, the issue of surrogacy agreements was addressed by the National Conference of Commissioners on Uniform State Laws in 1988 with the adoption of the Uniform Status of Children of Assisted Conception Act (USCACA); and

WHEREAS, the states were offered two alternatives in the USCACA, either to regulate such activities through a judicial review process or to void such contracts and only two states decided to enact the USCACA; and

WHEREAS, the USCACA has now been incorporated into the Uniform Parentage Act, but the enactment of the Article on surrogacy agreements or gestational agreements in the Uniform Parentage Act is optional as these agreements are invalid in some states; and

WHEREAS, some states allow such surrogacy agreements by statute or case law and some states provide that such agreements are void and contrary to public policy, while other states do not ban such agreements per se, but statutorily ban compensation to the gestational mother; and

WHEREAS, in other states, surrogacy agreements are treated as a legal act that should be approved by a court; and

WHEREAS, surrogacy agreements often present a variety of ethical, moral, and social issues, as well as contractual issues involved in the surrogacy contract between the relevant parties; and

WHEREAS, surrogacy agreements will present a variety of legal issues involving legal status of the children born to such agreements and the various parental rights and responsibilities of those involved in artificial reproduction; and

WHEREAS, despite the difficult issues presented by surrogacy agreements, the surrogacy arrangement has become an increasingly popular vehicle for those couples facing infertility, and the regulation of these agreements will lead to better protection of the legal right of the parties involved, especially the best interest of the child; and

WHEREAS, there is a need for a comprehensive consideration of all issues involved in this area, given the current medical technology involved in artificial reproduction and the potential for future advances in such medical technology.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study and make recommendations on the implementation of laws in Louisiana relative to surrogacy agreements, and to report its findings to the legislature.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana State Law Institute, and that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before March 1, 2011.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES