

SENATE No. 969

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote family stability.

PETITION OF:

NAME:

Bruce E. Tarr

DISTRICT/ADDRESS:

First Essex and Middlesex

SENATE No. 969

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 969) of Bruce E. Tarr for legislation to create an updated Parental Surrogacy Act. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to promote family stability.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4B of Chapter 46 of the General Laws is hereby amended by
2 striking it in its entirety and inserting in place thereof the following:-

3 Section 4B. Parental Surrogacy

4 (a) Definitions

5 As used in this chapter, the following terms shall have the following meanings:-

6 “Assisted Reproduction”, a method of causing pregnancy other than sexual intercourse.
7 The term includes, but is not limited to: (a) artificial insemination; (b) male or female gametes;
8 (c) donation of embryos; (d) in-vitro fertilization and transfer of embryos; (e) intracytoplasmic
9 sperm injection.

10 “Child” means an individual, or individuals in the event of a multiple pregnancy, who is
11 created from the genetic material of both of Intended Parents, the genetic material of one of the

12 Intended Parents and the genetic material of donor egg or donor sperm, the genetic material of
13 both donor egg and donor sperm, or donated embryos and carried by a Gestational Carrier.

14 “Donor” means an individual who contributes a gamete or gametes or an embryo or
15 embryos for the purpose of assisted reproduction with no claim or claims to present or future
16 parental rights and obligations of any resulting child. A Donor is not a parent of a child
17 conceived through assisted reproduction.

18 “Gamete”, either the ovum (egg) or the spermatozoa (sperm).

19 “Gestational Carrier”, a woman who is neither an intended parent nor a donor, who
20 agrees to become pregnant with a Child, created from the gametes of others and not her own, by
21 assisted reproduction and pursuant to a gestational carrier arrangement.

22 “Gestational Carrier Agreement”, a written contract between the gestational carrier, her
23 spouse or partner, if any, and the intended parent or parents, that sets forth the obligations, rights,
24 and duties of the parties to a gestational carrier arrangement.

25 “Intended Parent”, a person who intends to become a parent of any Child that results
26 from a gestational carrier agreement and is a party to such agreement and without determination
27 of a genetic connection to the Child. This term shall include intended mothers, intended fathers,
28 or a combination of both.

29 (b) Parentage Orders

30 Any of the parties to a gestational carrier agreement may petition the district court for a
31 parentage order declaring that the Intended Parent(s) is/are the sole parents of a Child resulting
32 from assisted reproduction and a gestational carrier and her spouse or partner, if any, are not the

33 parent the parent or parents of such Child. Such a petition may be brought pre- or post-birth in
34 the Probate & Family court in the county where the gestational carrier resides, where the
35 Intended Parent(s) reside, or where the resulting Child is born or is expected to be born. Sworn
36 affidavits of the parties and assisted reproductive physician demonstrating the intent of the
37 parties for the Intended Parent(s) to be the sole legal parent(s) of the Child and that the Child was
38 conceived through assisted reproduction shall be sufficient to permit such a finding and a hearing
39 shall not be required unless the court requires additional information which cannot reasonably be
40 ascertained without a hearing. The court shall, within thirty (30) days of the filing of the
41 petition, grant the petition upon a finding that the intent of the parties was for the Intended Parent
42 or parents to be the sole legal parents of the Child and that the Child was conceived through
43 assisted reproduction. Such parentage orders issued under this section shall conclusively
44 establish or affirm, where applicable, the parent-child relationship.

45 (c) Upon the request of any party, such parentage order shall direct that the certificate of
46 birth name the Intended Parent(s) as the sole parent(s) of the resulting Child and that such
47 certificate of birth shall not name the gestational carrier or her spouse or partner, if any, as the
48 parent or parents of the resulting Child.

49 (d) All proceedings pursuant to this section shall be closed to the public, and papers and
50 records pertaining to such proceedings shall be subject to inspection only upon consent of all the
51 parties or upon a showing of good cause supported by a court order. However, when a Child
52 who is a subject of a parentage order, upon reaching the age of eighteen (18), the child may have
53 access to the court documents and pleadings in his or her case.