

1 SECTION 1. IC 31-9-2-9.5 IS ADDED TO THE INDIANA CODE AS A NEW
2 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9.5. "Assisted**
3 **reproduction", for purposes of IC 31-20, means a method of causing pregnancy**
4 **other than sexual intercourse. The term includes:**

- 5 (1) **intrauterine insemination;**
6 (2) **donation of an egg;**
7 (3) **donation of an embryo;**
8 (4) **in vitro fertilization and transfer of an embryo; and**
9 (5) **intracytoplasmic sperm injection.**

10 SECTION 2. IC 31-9-2-13 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16
12 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the
13 marriage. The term includes the following:

- 14 (1) Children born out of wedlock to the parties.
15 (2) Children born or adopted during the marriage of the parties.

16 (b) "Child", for purposes of the Uniform Interstate Family Support Act under
17 IC 31-18, has the meaning set forth in IC 31-18-1-2.

18 (c) "Child", for purposes of IC 31-19-5, includes an unborn child.

19 (d) **"Child", for purposes of IC 31-20, means a person of any age:**

- 20 (1) **whose parentage may be determined under IC 31-20-2; or**
21 (2) **who is conceived as a result of a gestational agreement described in**
22 **IC 31-20-3.**

23 (e) "Child", for purposes of the juvenile law, means:

- 24 (1) a person who is less than eighteen (18) years of age;
25 (2) a person:
26 (A) who is eighteen (18), nineteen (19), or twenty (20) years of
27 age; and
28 (B) who either:

- (i) is charged with a delinquent act committed before the person's eighteenth birthday; or
- (ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

- (A) who is alleged to have committed an act that would have been murder if committed by an adult; and
- (B) who was less than eighteen (18) years of age at the time of the alleged act.

~~(e)~~ (f) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

~~(f)~~ (g) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

- (1) a child support order issued under IC 31-14-10 or IC 31-16-6; or
- (2) any other child support order that is enforceable under IC 31-16-12.5.

SECTION 3. IC 31-9-2-22.5, AS ADDED BY P.L.234-2005, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 22.5.

"Conduct a criminal history check", for purposes of IC 12-14-25.5, IC 31-19, **IC 31-20-2**, **IC 31-20-3**, IC 31-33, IC 31-34, IC 31-37, and IC 31-39-2-13.5, means to:

(1) request the state police department to:

- (A) release or allow inspection of a limited criminal history (as defined in IC 10-13-3-11) and juvenile history data (as defined in IC 10-13-4-4) concerning a person who is currently residing in a location designated by the department of child services or by a juvenile court as the out-of-home placement for a child at the time the child will reside in the location; and

(B) conduct a:

- (i) national fingerprint based criminal history background check in accordance with IC 10-13-3-39; or
- (ii) national name based criminal history record check (as

1 defined in IC 10-13-3-12.5) of a person described in clause
2 (A) as provided by IC 10-13-3-27.5; and

3 (2) collect each:

4 (A) substantiated report of child abuse or neglect reported in a
5 jurisdiction where a probation officer, a caseworker, or the
6 department of child services has reason to believe that a person
7 described in subdivision (1)(A) resided; and

8 (B) adjudication for a delinquent act described in IC 31-37-1-2
9 reported in a jurisdiction where a probation officer, a caseworker,
10 or the department of child services has reason to believe a person
11 described in subdivision (1)(A) resided.

12 SECTION 4. IC 31-9-2-42.5 IS ADDED TO THE INDIANA CODE AS A NEW
13 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 42.5. (a)**
14 **"Donor", for purposes of IC 31-20, means a person who produces eggs or sperm**
15 **used for assisted reproduction.**

16 **(b) The term does not include:**

17 **(1) a husband who provides sperm, or a wife who provides eggs, to be**
18 **used for assisted reproduction by the wife; or**

19 **(2) a woman who gives birth to a child by means of assisted**
20 **reproduction except as part of a gestational agreement.**

21 SECTION 5. IC 31-9-2-47.5 IS ADDED TO THE INDIANA CODE AS A NEW
22 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 47.5.**
23 **"Gestational agreement", for purposes of IC 31-20, refers to an agreement**
24 **described in IC 31-20-3.**

25 SECTION 6. IC 31-9-2-47.6 IS ADDED TO THE INDIANA CODE AS A NEW
26 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 47.6.**
27 **"Gestational carrier", for purposes of IC 31-20, means a woman who carries a child**
28 **who is not conceived from the woman's egg and who gives birth as part of a**
29 **gestational agreement.**

30 SECTION 7. IC 31-9-2-47.7 IS ADDED TO THE INDIANA CODE AS A NEW

1 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 47.7.**

2 **"Gestational mother", for purposes of IC 31-20, means a woman who gives birth to**
3 **a child who is not conceived from the woman's egg and who gives birth as part of a**
4 **gestational agreement.**

5 SECTION 8. IC 31-9-2-63.2 IS ADDED TO THE INDIANA CODE AS A NEW
6 SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 63.2. (a)**

7 **"Intended parents", for purposes of IC 31-20, means parents who enter into an**
8 **agreement providing that they will be the parents of a child born by means of**
9 **assisted reproduction or by means of assisted reproduction to a gestational mother.**
10 **Parents are intended parents even if neither parent has a genetic relationship with**
11 **the child.**

12 **(b) The term does not include an unmarried person.**

13 SECTION 9. IC 31-9-2-116.5 IS ADDED TO THE INDIANA CODE AS A
14 NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 116.5.**

15 **"Sexual intercourse", for purposes of IC 31-20, means an act that includes any**
16 **penetration of the female sex organ by the male sex organ.**

17 SECTION 10. IC 31-9-2-120 IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE JULY 1, 2006]: **Sec. 120. "State department", for purposes of IC 31-19-5**
19 **and IC 31-20, refers to the state department of health.**

20 SECTION 11. IC 31-9-2-126 IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2006]: **Sec. 126. (a) "Surrogate", for purposes of IC 31-20, means**
22 **a party to a surrogate agreement who agrees to bear or bears a child that is ~~genetically~~**
23 **biologically related to:**

24 (1) the party who agrees to bear or bears the child and an intended
25 biological parent; **or**

26 (2) an intended biological parent and a gamete donor who is not:

27 (A) an intended biological parent; and

28 (B) the spouse of the party who agrees to bear or bears the child. **or**

29 ~~(3) two (2) intended biological parents of the child.~~

30 **(b) This term does not include a gestational carrier.**

1 SECTION 12. IC 31-20-2 IS ADDED TO THE INDIANA CODE AS A NEW
2 CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

3 **Chapter 2. Assisted Reproduction**

4 **Sec. 1. (a) Except as provided in subsection (b), this chapter applies to a child**
5 **who is conceived by assisted reproduction.**

6 **(b) This chapter does not apply to a child who is conceived by the following:**

7 **(1) Sexual intercourse.**

8 **(2) Assisted reproduction in which:**

9 **(A) the intended father is the sperm donor; and**

10 **(B) the intended mother is the egg donor.**

11 **(3) A gestational carrier.**

12 **(4) Surrogacy.**

13 **Sec. 2. (a) The Indiana Rules of Civil Procedure apply to parentage actions.**

14 **(b) IC 12-17-8 does not apply to parentage actions described in this chapter.**

15 **Sec. 3. (a) This section applies to each Indiana county that has a separate**
16 **probate court.**

17 **(b) The probate court has exclusive jurisdiction in all proceedings to**
18 **establish parentage.**

19 **Sec. 4. (a) A petitioner who seeks to establish parentage may, by attorney of**
20 **record, file a petition to establish parentage with the clerk of the court having**
21 **probate jurisdiction in the county in which:**

22 **(1) the petitioner resides;**

23 **(2) a licensed child placing agency that performed the assessment**
24 **under section 12 of this chapter has an office;**

25 **(3) the petitioner's physician has an office; or**

26 **(4) the attorney representing the petitioner has an office.**

27 **(b) The county in which the petition to establish parentage may be filed is a**
28 **matter of venue and not jurisdiction.**

29 **Sec. 5. (a) A petition to establish parentage may be filed by an intended**
30 **parent.**

1 **(b) The intended parents must be married to each other, and both spouses**
2 **must be parties to the action to establish parentage.**

3 **(c) An unmarried person may not be an intended parent.**

4 **Sec. 6. (a) A petition to establish parentage must be filed in triplicate.**

5 **(b) The original copy of a petition to establish parentage must be verified by**
6 **the oath or affirmation of each petitioner.**

7 **Sec. 7. (a) A petition to establish parentage must be made under oath and**
8 **specify the following:**

9 **(1) The:**

10 **(A) name, age, and place of residence of each petitioner; and**

11 **(B) place and date of marriage of the petitioners.**

12 **(2) The name and place or residence, if known, of the donor or**
13 **donors.**

14 **(3) The name and address of the agency that performed the**
15 **assessment under section 12 of this chapter.**

16 **(4) The name and address of the physician who performed the**
17 **medical procedure that resulted in the pregnancy of the child who is**
18 **subject to the parentage action.**

19 **(5) The type of assisted reproduction procedure that was used.**

20 **(6) Whether a petitioner has been convicted of:**

21 **(A) a felony; or**

22 **(B) a misdemeanor relating to the health and safety of**
23 **children;**

24 **and, if so, the date and description of the conviction.**

25 **(7) Additional information consistent with the purpose and provisions**
26 **of this chapter that is considered relevant to the proceedings.**

27 **(b) The following documents must be attached to the petition to establish**
28 **parentage:**

29 **(1) The consent of the petitioners required under section 13 of this**
30 **chapter to the medical procedure that resulted in the pregnancy for**

1 the child who is the subject to the parentage action.

2 (2) The consent of each donor, if known, to the use of the donation for
3 the assisted reproduction medical procedure.

4 (3) The certificate of satisfactory completion of the assessment
5 required under section 12 of this chapter.

6 (4) The certificate of the physician required under section 14 of this
7 chapter.

8 **Sec. 8. (a) This section does not apply to a petitioner establishing parentage
9 who provides the licensed child placing agency with the results of a criminal history
10 check conducted:**

11 (1) in accordance with IC 31-9-2-22.5; and

12 (2) not more than one (1) year before the date on which the petition is
13 filed.

14 (b) To establish parentage, each petitioner shall submit the necessary
15 information, forms, or consents for a licensed child placing agency that conducts the
16 inspection and investigation required to establish parentage under section 12 of this
17 chapter to conduct a criminal history check of the petitioner as part of the
18 investigation.

19 (c) To establish parentage, the petitioner shall pay the fees and other costs of
20 the criminal history check required under this section.

21 **Sec. 9. If a petitioner to establish parentage is charged with:**

22 (1) a felony; or

23 (2) a misdemeanor relating to the health and safety of children;

24 during the pendency of the proceedings to establish parentage, the petitioner shall
25 notify the court of the criminal charge in writing.

26 **Sec. 10. (a) Not more than five (5) days after a petition to establish parentage
27 has been filed, the clerk of the court shall notify the court of the filing.**

28 (b) Upon receiving notice under subsection (a) that a petition to establish
29 parentage has been filed, the court shall promptly:

30 (1) examine the petition to establish parentage; and

1 (2) determine whether the petition to establish parentage is in the
2 proper form.

3 (c) If the court does not find the petition to establish parentage to be in the
4 proper form, the court shall:

5 (1) return the petition to establish parentage immediately to the
6 petitioner or the petitioner's attorney; or

7 (2) set a hearing to show cause why the law has not been followed.

8 (d) If a petition to establish parentage is returned under subsection (c)(1), the
9 petitioner shall promptly correct and amend the petition to conform to the law.

10 Sec. 11. (a) This section does not apply to assisted reproduction in which the
11 child is the genetic child of both of the intended parents.

12 (b) A physician may not commence an assisted reproduction technology
13 procedure that may result in a child being born until the intended parents of the
14 child have received a certificate of satisfactory completion of the assessment
15 required under section 12 of this chapter.

16 (c) A physician and the intended parents may proceed with testing, gamete
17 retrieval, embryo creation before obtaining the certificate required under section 12
18 of this chapter.

19 Sec. 12. (a) Before intended parents may commence assisted reproduction,
20 the intended parents shall obtain an assessment from a licensed child placing agency
21 in the intended parents' state of residence.

22 (b) The assessment must follow the normal practice for assessments in a
23 domestic infant adoption procedure and must include the following information:

24 (1) The intended parents' purpose for the assisted reproduction.

25 (2) The fertility history of the intended parents, including the
26 pregnancy history and response to pregnancy losses of the woman.

27 (3) An acknowledgment by the intended parents that the child may
28 not be the biological child of at least one (1) of the intended parents
29 depending on the type of artificial reproduction procedure used.

30 (4) A list of the intended parents' family and friend support system.

1 (5) A plan for sharing any known genetic information with the child.

2 (6) Personal information about each intended parent, including the
3 following:

4 (A) Family of origin.

5 (B) Values.

6 (C) Relationships.

7 (D) Education.

8 (E) Employment and income.

9 (F) Hobbies and talents.

10 (G) Physical description, including the general health of the
11 individual.

12 (H) Birth verification.

13 (I) Personality description, including the strengths and
14 weaknesses of each intended parent.

15 (7) Description of any children residing in the intended parents' home.

16 (8) A verification and evaluation of the intended parents' marital
17 relationship, including:

18 (A) the shared values and interests between the individuals;

19 (B) the manner in which conflict between the individuals is
20 resolved; and

21 (C) a history of the intended parents' relationship.

22 (9) Documentation of the dissolution of any prior marriage and an
23 assessment of the impact of the prior marriage on the intended
24 parents' relationship.

25 (10) A description of the family lifestyle of the intended parents,
26 include a description of individual participation in faith-based or
27 church activities, hobbies, and other interests.

28 (11) The intended parents' child rearing expectations and values.

29 (12) A description of the home and community, including verification
30 of the safety and security of the home.

1 (13) Child care plans.

2 (14) Statement of the assets, liabilities, investments, and ability of the
3 intended parents to manage finances, including the most recently filed
4 tax forms.

5 (15) A review of the local police records, the state and violent offender
6 directory, and a criminal history check as set forth in subsection (c).

7 (16) A letter of reference by a friend or family member.

8 (17) A written consent from each donor, if known, to use of the
9 donation in the assisted reproduction medical procedure.

10 (18) The recommendation for participation in assisted reproduction.

11 (c) Except as provided in subsection (d), the licensed child placing agency
12 shall conduct a criminal history check on each intended parent and any other
13 person who is currently residing in the intended parents' home.

14 (d) A licensed child placing agency is not required to conduct a criminal
15 history check on an intended parent if the intended parent provides the licensed
16 child placing agency with the results of a criminal history check conducted:

17 (1) in accordance with IC 31-9-2-22.5; and

18 (2) not more than one (1) year before the date on which the licensed
19 child placing agency provides written approval for the
20 commencement of the assisted reproduction procedure.

21 (e) The intended parents shall pay the fees and other costs of the criminal
22 history check required under this section.

23 (f) After completing the assessment described in this section, and if the child
24 placing agency approves the intended parents to commence the assisted
25 reproduction procedure, the agency shall issue a certificate that the intended
26 parents have satisfactorily completed the assessment and are ready to commence
27 assisted reproduction.

28 (g) A certificate issued under subsection (f) is valid for two (2) years.

29 (h) A physician may rely upon a certificate issued under this section to
30 commence assisted reproduction with an intended parent.

1 (i) A certificate issued under subsection (f) must be filed with the petition to
2 establish parentage.

3 Sec. 13. (a) Before commencing assisted reproduction with an intended
4 parent, the physician who will perform the procedure shall obtain the consent of
5 each of the intended parents.

6 (b) The consent must contain the following:

7 (1) An affirmation by the intended parent.

8 (2) A statement that if an intended parent becomes pregnant, each
9 intended parent waives the right to deny parentage of the child.

10 (3) A statement that the parentage of a child conceived by assisted
11 reproduction shall be the child of the intended parent for all intent
12 and purposes, the same as if the child had been conceived as a result
13 of sexual intercourse.

14 (4) A statement that the contents of the consent are true under the
15 penalties of perjury.

16 (5) The signature of at least the physician or a member of the
17 physician's staff.

18 (c) The consent obtained under this section must be filed with the petition to
19 establish parentage.

20 (d) **FORM approved by ? agency?**

21 Sec. 14.(a) After a viable pregnancy has been achieved by artificial
22 reproduction, the physician who performed the artificial reproduction procedure
23 shall issue a certificate to the intended parents stating:

24 (1) the child was conceived under the care of the physician;

25 (2) the type of artificial reproduction procedure that was used;

26 (3) whether the donor is known or anonymous; and

27 (4) whether the physician is aware of any compensation being paid to
28 the donor.

29 (b) The certificate must be:

30 (1) on the physician's letterhead stationary; and

1 (2) notarized.

2 (c) The certificate required under this section shall be filed with the petition
3 to establish parentage.

4 (d) form by x agency?

5 Sec. 15. (a) If the court finds that:

6 (1) the petition to establish parentage satisfies the requirements of this
7 chapter;

8 (2) the certificate from a licensed child placing agency required under
9 section 12 of this chapter has been filed and meets the requirements of
10 this chapter;

11 (3) the certificate by the physician required under section 14 of this
12 chapter has been filed and meets the requirements of this chapter;
13 and

14 (4) the consent required under section 13 of this chapter has been
15 obtained;

16 the court shall grant the petition to establish parentage and enter a decree
17 establishing parentage without a hearing or further court action unless the court
18 finds by clear and convincing evidence that granting the petition is not in the best
19 interests of the child.

20 (b) The court may deny the petition to establish parentage if a petitioner has
21 been convicted of a crime described in section 7(a)(5).

22 (c) The court may not grant a petition to establish parentage if a petitioner
23 has been convicted of any of the following:

24 (1) Murder (IC 35-42-1-1).

25 (2) Causing suicide (IC 35-42-1-2).

26 (3) Assisting suicide (IC 35-42-1-2.5).

27 (4) Voluntary manslaughter (IC 35-42-1-3).

28 (5) Reckless homicide (IC 35-42-1-5).

29 (6) Battery as a felony (IC 35-42-2-1).

30 (7) Aggravated battery (IC 35-42-2-1.5).

- 1 **(8) Kidnapping (IC 35-42-3-2).**
2 **(9) Criminal confinement (IC 35-42-3-3).**
3 **(10) A felony sex offense under IC 35-42-4.**
4 **(11) Carjacking (IC 35-42-5-2).**
5 **(12) Arson (IC 35-43-1-1).**
6 **(13) Incest (IC 35-46-1-3).**
7 **(14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-**
8 **4(a)(2)).**
9 **(15) Child selling (IC 35-46-1-4(d)).**
10 **(16) A felony involving a weapon under IC 35-47 or IC 35-47.5.**
11 **(17) A felony relating to controlled substances under IC 35-48-4.**
12 **(18) An offense relating to material or a performance that is harmful**
13 **to minors or obscene under IC 35-49-3.**
14 **(19) A felony that is substantially similar to a felony listed in**
15 **subdivisions (1) through (18) for which the conviction was entered in**
16 **another state.**

17 **However, the court is not prohibited from granting a petition based upon a felony**
18 **conviction under subdivision (6), (11), (12), (16), or (17), or the equivalent under**
19 **subdivision (19), if the offense was not committed within the immediately preceding**
20 **five (5) year period.**

21 **(d) A court may not grant a petition to establish parentage if the petitioner is**
22 **an offender (as defined in IC 5-2-12-4).**

23 **Sec. 16. (a) A donor is:**

- 24 **(1) relieved of all legal duties and obligations to the child; and**
25 **(2) divested of all rights with respect to the child;**

26 **after the court's entry of the decree establishing parentage.**

27 **(b) A donor may not be compensated except for the actual costs of the testing**
28 **and retrieval of the donation.**

29 **(c) After the court's entry of the decree, the intended parents are the parents**
30 **of the child for all purposes.**

1 **Sec. 17. (a) If the court dismisses a petition to establish parentage, the court**
2 **shall determine the person who should have custody of the child.**

3 **(b) If the court determines that it is necessary to change the child's custody to**
4 **another person, regardless of the person's right to immediate custody, the court may**
5 **order a plan for a gradual change of custody to ease the child's transition unless the**
6 **gradual change in custody would:**

7 **(1) endanger the child's physical health; or**

8 **(2) significantly impair the child's emotional development.**

9 **(c) The court may do the following:**

10 **(1) Implement a change of custody under this section by gradually**
11 **increasing the child's visitation with each person who is entitled to**
12 **custody.**

13 **(2) Order counseling for the child and the persons involved in the**
14 **change of custody to develop and implement a plan for the change of**
15 **custody.**

16 **(3) Consult with the counselor who is assisting the persons in**
17 **developing a transition plan to determine an order for the change of**
18 **custody that meets the child's best interests.**

19 **Sec. 18. (a) If a marriage is dissolved before the placement of eggs, sperm, or**
20 **embryos in a woman, the former spouse is not a parent of the resulting child unless**
21 **the former spouse consents in a record that if assisted reproduction occurs after a**
22 **divorce, the former spouse is the parent of the child.**

23 **(b) The consent of a former spouse to assisted reproduction may be**
24 **withdrawn by that individual filing with the **court/physician** and a notarized**
25 **statement under oath withdrawing consent at any time before placement of eggs,**
26 **sperm, or embryos.**

27 **Sec. 19. If a spouse dies before the placement of eggs, sperm, or embryos, the**
28 **deceased spouse is not a parent of the child unless the deceased spouse **makes a****
29 ****notarized statement under oath** that if assisted reproduction occurs after death, the**
30 **deceased spouse is the parent of the child.**

1 **Sec. 20. (a) An intended parent who knowingly or intentionally participates**
2 **in an artificial reproduction procedure without establishing parentage under section**
3 **15 of this chapter commits unauthorized artificial reproduction, a Class B**
4 **misdemeanor.**

5 **(b) A physician who knowingly or intentionally fails to obtain the consent**
6 **required under section 13 of this chapter commits unauthorized practice of artificial**
7 **reproduction, a Class B misdemeanor.**

8 **(c) A person who knowingly or intentionally makes a materially false or**
9 **misleading statement under this chapter commits deception in establishing**
10 **parentage, a Class A misdemeanor.**

11 **Chapter 3. Gestational Agreements**

12 **Sec. 1. (a) A prospective gestational mother, the gestational mother's**
13 **husband if the gestational mother is married, a donor, and the intended parents**
14 **may enter into a written gestational agreement if:**

15 **(1) the prospective gestational mother agrees to pregnancy by means**
16 **of assisted reproduction;**

17 **(2) the prospective gestational mother, the gestational mother's**
18 **husband if the gestational mother is married, and the donor, if**
19 **known, relinquish all rights and duties as parents of a child conceived**
20 **through assisted reproduction; and**

21 **(3) the agreement states that the intended parents are the parents of**
22 **the child.**

23 **(b) The intended parents must be married to each other, and both spouses**
24 **must be parties to the gestational agreement.**

25 **(c) A gestational agreement is enforceable only if the agreement is validated**
26 **as required in section 5 of this chapter.**

27 **(d) A gestational agreement does not apply to the birth of a child conceived**
28 **by sexual intercourse.**

29 **(e) A gestational agreement may provide for payment to the gestational**
30 **carrier for the actual medical costs incurred by the gestational carrier.**

1 **(f) A gestational agreement may not limit the right of a gestational mother to**
2 **safeguard the gestational mother's health or the health of the embryo or fetus.**

3 **Sec. 2. (a) This section applies to each Indiana county that has a separate**
4 **probate court.**

5 **(b) The probate court has exclusive jurisdiction in all petitions to validate**
6 **gestational agreements.**

7 **Sec. 3. (a) The intended parents and the prospective gestational mother may**
8 **commence a proceeding to validate a gestational agreement in the court having**
9 **probate jurisdiction in the county in which:**

10 **(1) the intended parents reside;**

11 **(2) the gestational carrier resides;**

12 **(3) the licensed child placing agency that performs the assessment**
13 **required under this chapter has an office; or**

14 **(4) the attorney representing the intended parents has an office.**

15 **(b) The county in which the petition to validate the gestational agreement is a**
16 **matter of venue and not jurisdiction.**

17 **Sec. 4. A proceeding to validate a gestational agreement may not be**
18 **maintained unless:**

19 **(1) the prospective gestational mother's husband, if the gestational**
20 **mother is married, is joined in the proceeding;**

21 **(2) the intended parents have obtained the assessment by a licensed**
22 **child placing agency required by this chapter; and**

23 **(3) a copy of the:**

24 **(A) gestational agreement; and**

25 **(B) assessment from the licensed child placing agency;**

26 **is attached to the petition.**

27 **Sec. 5. (a) If the requirements of subsection (b) are satisfied, the court may**
28 **issue an order validating a gestational agreement and declaring that the intended**
29 **parents will be the parents of a child born during the term of the agreement.**

30 **(b) The court may issue an order under subsection (a) only if:**

- (1) the parties have submitted to the jurisdiction of the court;**
- (2) medical evidence shows that the intended mother is unable to bear a child or is unable to do so without unreasonable risk to her physical or mental health or to the unborn child;**
- (3) a licensed child placing agency makes a home study evaluation of the intended parents as required under section 11 of this chapter;**
- (4) the parties have voluntarily entered into the gestational agreement;**
- (5) the prospective gestational mother has previously given birth and her bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother; and**
- (6) the intended parents have provided the court with evidence of payment for reasonable health care expenses, including responsibility for expenses if the agreement is terminated.**

(c) A decision to validate a gestational agreement may be reviewed on appeal only for an abuse of discretion.

Sec. 6. Subject to IC 31-17-3-3, a court conducting a proceeding under this chapter has exclusive, continuing jurisdiction over matters arising out of the gestational agreement until a child born to a gestational mother becomes one hundred eighty (180) days of age.

Sec. 7. (a) After an order has been issued under section 5 of this chapter, but before the prospective gestational mother becomes pregnant, the prospective gestational mother, the gestational mother's husband if the gestational mother is married, or either of the intended parents may terminate the gestational agreement by giving written notice of termination to all parties.

(b) The court may terminate the gestational agreement if good cause is shown.

(c) A person who terminates a gestational agreement shall file notice of the termination of the gestational agreement with the court. Upon receipt of the notice,

1 the court shall vacate the order issued under section 3 of this chapter.

2 (d) Neither a prospective gestational mother nor the gestational mother's
3 husband if the gestational mother is married is liable to the intended parents for
4 terminating a gestational agreement under this section.

5 Sec. 8. (a) The intended parents shall file notice with the court that a child
6 has been born to the gestational mother not later than three hundred (300) days
7 after assisted reproduction. After receiving the notice, the court shall issue an order:

8 (1) confirming that the intended parents are the parents of the child;

9 (2) ordering that the child be surrendered to the intended parents if
10 necessary; and

11 (3) directing the state department to issue a birth certificate naming
12 the intended parents as the parents of the child.

13 (b) If the parentage of a child born to a gestational mother is alleged not to be
14 the result of assisted reproduction, the court shall order genetic testing to determine
15 the parentage of the child.

16 Sec. 9. After the issuance of an order under this chapter, the subsequent
17 marriage of the gestational mother does not:

18 (1) affect the validity of the gestational agreement;

19 (2) require the consent of the husband to the agreement; and

20 (3) make the husband a presumed father of the child.

21 Sec. 10. (a) A gestational agreement that is not judicially validated under
22 section 5 of this chapter is unenforceable.

23 (b) If a birth results under a gestational agreement that is not judicially
24 validated, a court may issue any order that the court believes is in the best interests
25 of the child, including an order for custody or support.

26 (c) A court may order the intended parents of a nonvalidated gestational
27 agreement to pay:

28 (1) support for the child; and

29 (2) any fees as determined by the court.

30 Sec. 11. The records and proceedings concerning a gestational agreement are

1 confidential and subject to inspection in the same manner as adoption records under
2 IC 31-19-19.

3 Sec. 12. (a) Before intended parents may enter into a gestational agreement
4 and before conception occurs, the intended parents shall obtain an assessment from
5 a licensed child placing agency in the intended parents' state of residence.

6 (b) The assessment must follow the normal practice for assessments in a
7 domestic infant adoption procedure and must include the following information:

8 (1) The intended parents' motivation for entering into a gestational
9 agreement.

10 (2) The fertility history of the intended parents, including the
11 pregnancy history and response to pregnancy losses of the woman.

12 (3) An acknowledgment by the intended parents that the child may
13 not be genetically related to at least one (1) of the intended parents
14 depending on the type of medical procedure used.

15 (4) A list of the intended parents' family and friend support system.

16 (5) A plan for sharing any known genetic information with the child.

17 (6) Personal information about each intended parent, including the
18 following:

19 (A) Family of origin.

20 (B) Values.

21 (C) Relationships.

22 (D) Education.

23 (E) Employment and income.

24 (F) Hobbies and talents.

25 (G) Physical description, including the general health of the
26 individual.

27 (H) Birth verification.

28 (I) Personality description, including the strengths and
29 weaknesses of each intended parent.

30 (7) Description of any children residing in the intended parents' home.

1 **(8) A verification and evaluation of the intended parents' marital**
2 **relationship, including:**

3 **(A) the shared values and interests between the individuals;**

4 **(B) the manner in which conflict between the individuals is**
5 **resolved; and**

6 **(C) a history of the intended parents' relationship.**

7 **(9) Documentation of the dissolution of any prior marriage and an**
8 **assessment of the impact of the prior marriage on the intended**
9 **parents' relationship.**

10 **(10) A description of the family lifestyle of the intended parents,**
11 **include a description of individual participation in faith-based or**
12 **church activities, hobbies, and other interests.**

13 **(11) The intended parents' child rearing expectations and values.**

14 **(12) A description of the home and community, including verification**
15 **of the safety and security of the home.**

16 **(13) Child care plans.**

17 **(14) Statement of the assets, liabilities, investments, and ability of the**
18 **intended parents to manage finances, including the most recently filed**
19 **tax forms.**

20 **(15) A review of the local police records, the state and violent offender**
21 **directory, and a criminal history check as set forth in subsection (d).**

22 **(16) A letter of reference by a friend or family member.**

23 **(17) A written consent from:**

24 **(A) the gestational mother; and**

25 **(B) a donor, if used and if known, to use of the donation in the**
26 **medical procedure.**

27 **(18) The recommendation for participation in the gestational**
28 **agreement.**

29 **(c) The gestational mother shall receive psychological counseling. The**
30 **licensed child placing agency shall provide a certificate stating that the gestational**

1 mother has received psychological counseling. The gestational mother may not
2 enter into a gestational agreement unless the person who provided the psychological
3 counseling states in writing that the gestational mother is psychologically competent
4 to enter into the agreement.

5 (d) Except as provided in subsection (e), the licensed child placing agency
6 shall conduct a criminal history check on each intended parent and any other
7 person who is currently residing in the intended parents' home.

8 (e) A licensed child placing agency is not required to conduct a criminal
9 history check on an intended parent if the intended parent provides the licensed
10 child placing agency with the results of a criminal history check conducted:

11 (1) in accordance with IC 31-9-2-22.5; and

12 (2) not more than one (1) year before the date on which the licensed
13 child placing agency provides written approval for the
14 commencement of the assisted reproduction procedure.

15 (f) The intended parents shall pay the fees and other costs of the criminal
16 history check required under this section.

17 (g) After completing the assessment described in this section, and if the child
18 placing agency approves the intended parents to enter into the gestational
19 agreement, the agency shall issue a certificate that the intended parents have
20 satisfactorily completed the assessment and are ready to enter into a gestational
21 agreement.

22 (h) A certificate issued under subsection (g) is valid for two (2) years.

23 (i) A physician may rely upon a certificate issued under this section to
24 commence assisted reproduction with the gestational mother.

25 (j) A certificate issued under subsection (f) must be filed with the petition
26 validate the gestational agreement.

27 Sec. 13. A person who enters into a gestational agreement in violation of this
28 chapter commits a Class B misdemeanor. **this chapter states that if not validated,**
29 **unenforceable. Isn't that enough?**
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