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1 A bill to be entitled  
2 An act relating to parentage; amending s. 63.213,  
3 F.S.; revising terminology relating to parents;  
4 amending ss. 742.11 and 742.13, F.S.; revising  
5 terminology relating to married couples; amending ss.  
6 742.14 and 742.15, F.S.; revising terminology relating  
7 to parents; making technical changes; amending s.  
8 742.16, F.S.; revising to whom notice of hearing must  
9 be given on a petition for expedited affirmation of  
10 parental status; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Paragraph (b) of subsection (1), paragraphs (a)  
15 and (c) through (h) of subsection (2), subsections (4) and (5),  
16 and paragraphs (d) through (i) of subsection (6) of section  
17 63.213, Florida Statutes, are amended to read:

18 63.213 Preplanned adoption agreement.—

19 (1) Individuals may enter into a preplanned adoption  
20 arrangement as specified in this section, but such arrangement  
21 may not in any way:

22 (b) Constitute consent of a mother to place her biological  
23 child for adoption until 48 hours after the birth of the child  
24 and unless the court making the custody determination or  
25 approving the adoption determines that the mother was aware of  
26 her right to rescind within the 48-hour period after the birth

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27 of the child but chose not to rescind such consent. The  
28 volunteer mother's right to rescind her consent in a preplanned  
29 adoption applies only when she is the genetic mother of the  
30 ~~child is genetically related to her.~~

31 (2) A preplanned adoption agreement must include, but need  
32 not be limited to, the following terms:

33 (a) That the volunteer mother agrees to become pregnant by  
34 the fertility technique specified in the agreement, to bear the  
35 child, and to terminate any parental rights and responsibilities  
36 to the child she might have through a written consent executed  
37 at the same time as the preplanned adoption agreement, subject  
38 to a right of rescission by the volunteer mother any time within  
39 48 hours after the birth of the child, if the volunteer mother  
40 is the genetic mother of ~~genetically related to~~ the child.

41 (c) That the volunteer mother acknowledges that she is  
42 aware that she will assume parental rights and responsibilities  
43 for the child born to her as otherwise provided by law for a  
44 mother if the intended parents ~~father and intended mother~~  
45 terminate the agreement before final transfer of custody is  
46 completed, if a court determines that a parent clearly specified  
47 by the preplanned adoption agreement to be the biological parent  
48 is not the biological parent, or if the preplanned adoption is  
49 not approved by the court pursuant to the Florida Adoption Act.

50 (d) That an intended parent ~~father~~ who is also the  
51 biological parent ~~father~~ acknowledges that the parent ~~he~~ is  
52 aware that the parent ~~he~~ will assume parental rights and

53 responsibilities for the child as otherwise provided by law for  
54 a biological parent ~~father~~ if the agreement is terminated for  
55 any reason by any party before final transfer of custody is  
56 completed or if the planned adoption is not approved by the  
57 court pursuant to the Florida Adoption Act.

58 (e) That the intended parents ~~father and intended mother~~  
59 acknowledge that they may not receive custody or the parental  
60 rights under the agreement if the volunteer mother terminates  
61 the agreement or if the volunteer mother rescinds her consent to  
62 place her child for adoption within 48 hours after the birth of  
63 the child, if the volunteer mother is the genetic mother of  
64 ~~genetically related to~~ the child.

65 (f) That the intended parents ~~father and intended mother~~  
66 may agree to pay all reasonable legal, medical, psychological,  
67 or psychiatric expenses of the volunteer mother related to the  
68 preplanned adoption arrangement and may agree to pay the  
69 reasonable living expenses of the volunteer mother and her wages  
70 lost due to the pregnancy and birth ~~of the volunteer mother~~ and  
71 reasonable compensation to the volunteer mother for  
72 inconvenience, discomfort, and medical risk. No other  
73 compensation, whether in cash or in kind, shall be made pursuant  
74 to a preplanned adoption arrangement.

75 (g) That the intended parents ~~father and intended mother~~  
76 agree to accept custody of and to assert full parental rights  
77 and responsibilities for the child immediately upon the child's  
78 birth, regardless of any impairment to the child.

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79           (h) That the intended parents ~~father and intended mother~~  
80 ~~shall~~ have the right to specify the blood and tissue typing  
81 tests to be performed if the agreement specifies that at least  
82 one of them is intended to be the biological parent of the  
83 child.

84           (4) An attorney who represents the ~~an~~ intended parents  
85 ~~father and intended mother~~ or any other attorney with whom that  
86 attorney is associated may ~~shall~~ not represent simultaneously a  
87 female who is or proposes to be a volunteer mother in any matter  
88 relating to a preplanned adoption agreement or preplanned  
89 adoption arrangement.

90           (5) Payment to agents, finders, and intermediaries,  
91 including attorneys and physicians, as a finder's fee for  
92 finding volunteer mothers or matching a volunteer mother and  
93 intended parents ~~father and intended mother~~ is prohibited.  
94 Doctors, psychologists, attorneys, and other professionals may  
95 receive reasonable compensation for their professional services,  
96 such as providing medical services and procedures, legal advice  
97 in structuring and negotiating a preplanned adoption agreement,  
98 or counseling.

99           (6) As used in this section, the term:

100           (d) "Intended parents ~~father~~" means a married couple ~~male~~  
101 who, as evidenced by a preplanned adoption agreement, intends to  
102 assert the parental rights and responsibilities for a child  
103 conceived through a fertility technique, regardless of whether  
104 the child is biologically related to both parents or either

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105 parent ~~the male~~.

106 ~~(e) "Intended mother" means a female who, as evidenced by~~  
107 ~~a preplanned adoption agreement, intends to assert the parental~~  
108 ~~rights and responsibilities for a child conceived through a~~  
109 ~~fertility technique, regardless of whether the child is~~  
110 ~~biologically related to the female.~~

111 ~~(e)-(f)~~ (e) "Party" means the intended father, the intended  
112 mother, the volunteer mother, or the volunteer mother's spouse  
113 ~~husband~~, if she has a spouse ~~husband~~.

114 ~~(f)-(g)~~ (f) "Preplanned adoption agreement" means a written  
115 agreement among the parties that specifies the intent of the  
116 parties as to their rights and responsibilities in the  
117 preplanned adoption arrangement, consistent with ~~the provisions~~  
118 ~~of~~ this section.

119 ~~(g)-(h)~~ (g) "Preplanned adoption arrangement" means the  
120 arrangement through which the parties enter into an agreement  
121 for the volunteer mother to bear the child, for payment by the  
122 intended parents ~~father and intended mother~~ of the expenses  
123 allowed by this section, for the intended parents ~~father and~~  
124 ~~intended mother~~ to assert full parental rights and  
125 responsibilities to the child if consent to adoption is not  
126 rescinded after birth by a volunteer mother who is the genetic  
127 mother of ~~genetically related to~~ the child, and for the  
128 volunteer mother to terminate, subject to any right of  
129 rescission, all her parental rights and responsibilities to the  
130 child in favor of the intended parents ~~father and intended~~

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131 mother.

132 (h)~~(i)~~ "Volunteer mother" means a female at least 18 years  
133 of age who voluntarily agrees, subject to a right of rescission  
134 if she is the genetic mother of the ~~it is her biological~~ child,  
135 that if she should become pregnant pursuant to a preplanned  
136 adoption arrangement, she will terminate her parental rights and  
137 responsibilities to the child in favor of the intended parents  
138 ~~father and intended mother.~~

139 Section 2. Section 742.11, Florida Statutes, is amended to  
140 read:

141 742.11 Presumed status of child conceived by means of  
142 artificial or in vitro insemination or donated eggs or  
143 preembryos.—

144 (1) Except in the case of gestational surrogacy, any child  
145 born within wedlock who has been conceived by the means of  
146 artificial or in vitro insemination is irrebuttably presumed to  
147 be the child of the mother and her spouse ~~husband and wife~~,  
148 provided that both spouses ~~husband and wife~~ have consented in  
149 writing to the artificial or in vitro insemination.

150 (2) Except in the case of gestational surrogacy, any child  
151 born within wedlock who has been conceived by means of donated  
152 eggs or preembryos shall be irrebuttably presumed to be the  
153 child of the recipient gestating woman and her spouse ~~husband~~,  
154 provided that both spouses ~~parties~~ have consented in writing to  
155 the use of donated eggs or preembryos.

156 Section 3. Subsection (2) of section 742.13, Florida

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157 Statutes, is amended, subsections (10) through (15) are  
 158 renumbered as subsections (11) through (16), respectively, and a  
 159 new subsection (10) is added to that section, to read:

160 742.13 Definitions.—As used in ss. 742.11-742.17, the  
 161 term:

162 (2) "Commissioning couple" means the intended parents  
 163 ~~mother and father~~ of a child who will be conceived by means of  
 164 assisted reproductive technology using the eggs or sperm of at  
 165 least one of the intended parents.

166 (10) "Intended parents" means parents whose consent is  
 167 established under s. 752.11 or s. 742.15 and persons defined as  
 168 intended parents under s. 63.213.

169 Section 4. Section 742.14, Florida Statutes, is amended to  
 170 read:

171 742.14 Donation of eggs, sperm, or preembryos.—The donor  
 172 of any egg, sperm, or preembryo, other than the commissioning  
 173 couple or a donor ~~father~~ who has executed a preplanned adoption  
 174 agreement under s. 63.213 ~~63.212~~, shall relinquish all maternal  
 175 or paternal rights and obligations with respect to the donation  
 176 or the resulting children. Only reasonable compensation directly  
 177 related to the donation of eggs, sperm, and preembryos shall be  
 178 permitted.

179 Section 5. Subsection (2) of section 742.15, Florida  
 180 Statutes, is amended to read:

181 742.15 Gestational surrogacy contract.—

182 (2) The commissioning couple shall enter into a contract

183 with a gestational surrogate only when, within reasonable  
 184 medical certainty as determined by a physician licensed under  
 185 chapter 458 or chapter 459:

186 (a) Neither intended parent can ~~The commissioning mother~~  
 187 ~~cannot~~ physically gestate a pregnancy to term;

188 (b) Neither intended parent can physically gestate a  
 189 pregnancy without causing ~~The gestation will cause~~ a risk to the  
 190 physical health of the intended parent ~~commissioning mother~~; or

191 (c) Neither intended parent can physically gestate a  
 192 pregnancy without causing ~~The gestation will cause~~ a risk to the  
 193 health of the fetus.

194 Section 6. Paragraph (c) of subsection (4) of section  
 195 742.16, Florida Statutes, is amended to read:

196 742.16 Expedited affirmation of parental status for  
 197 gestational surrogacy.—

198 (4) Notice of the hearing shall be given by the  
 199 commissioning couple to:

200 (c) Any party claiming to be a genetic or intended parent  
 201 unless such rights are relinquished pursuant to s. 742.14  
 202 ~~paternity~~.

203 Section 7. This act shall take effect upon becoming a law.