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A bill to be entitled
An act relating to surrogacy and assisted reproduction; amending s. 63.213, F.S.; providing that a preplanned adoption arrangement may not authorize certain actions under certain circumstances; revising required and prohibited preplanned adoption agreement terms; requiring certain parties to have independent legal representation by an attorney who meets certain requirements; requiring a clerk of the court to request and obtain certain background investigations of specified parties under certain circumstances; prohibiting the court from approving a proposed adoption of a child under certain circumstances; providing that the biological mother of a child retains all parental rights to the child under certain circumstances; defining the term "disqualified person"; revising and deleting definitions; conforming provisions to changes made by the act; creating s. 383.61, F.S.; defining terms; requiring the Agency for Health Care Administration, in consultation with the Department of Health, to adopt certain rules for donor banks and fertility clinics by a specified date; prohibiting a donor bank or fertility clinic from operating without a license; providing an exception; providing that licenses are valid for a specified

26 timeframe unless suspended or revoked for cause;
27 requiring donor banks, fertility clinics, and certain
28 health care practitioners to develop certain written
29 best practice policies by a specified date; requiring
30 such donor banks, fertility clinics, and health care
31 practitioners to submit such policies to specified
32 entities for annual review; requiring such donor
33 banks, fertility clinics, and health care
34 practitioners to clearly label specified material and
35 maintain all records for a specified timeframe;
36 requiring the agency to perform certain annual
37 inspections; providing administrative penalties for
38 donor banks and fertility clinics that violate certain
39 provisions; authorizing the agency to refer certain
40 violations to the department; requiring fertility
41 clinics to obtain express and informed consent from
42 all participants; requiring fertility clinics to
43 provide a certain written document to participants;
44 specifying the manner in which a participant gives
45 express and informed consent; requiring donor banks
46 and fertility clinics to immediately cease using
47 certain reproductive material under certain
48 circumstances; creating s. 402.89, F.S.; defining
49 terms; requiring surrogacy agencies to require all
50 participants to undergo certain mental health

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evaluations; requiring that such evaluations be repeated at specified intervals under certain circumstances; requiring surrogacy agencies to require donors, gestational surrogates, and surrogates to undergo certain medical evaluations; specifying requirements relating to such evaluations; requiring surrogacy agencies to obtain level 2 security background investigations for participants from the Department of Children and Families through the Care Provider Background Screening Clearinghouse; requiring that such investigations be updated at specified intervals under certain circumstances; specifying requirements relating to such security background investigations; requiring a surrogacy agency to terminate any existing contract involving an individual found to be a disqualified person and take certain additional actions; requiring that a written contract be made between a surrogacy agency and a commissioning couple; specifying requirements for such surrogacy contracts; requiring surrogacy agencies to keep and maintain certain funds in separate accounts and maintain a certain mechanism for a certain purpose; requiring surrogacy agencies to establish escrow accounts for a certain purpose; specifying requirements for such escrow accounts and escrow

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76 agents; specifying requirements for certain contracts
77 entered into by surrogacy agencies and participants;
78 requiring the Department of Children and Families to
79 adopt certain rules by a specified date; requiring
80 surrogacy agencies to apply for and maintain
81 certification issued by the department; providing that
82 such certification is valid for a specified timeframe
83 unless suspended or revoked for cause; requiring the
84 department to conduct certain inspections; authorizing
85 the department to impose corrective action plans or
86 administrative fines upon surrogacy agencies or
87 suspend or revoke surrogacy agency certification under
88 certain circumstances; requiring the department to
89 maintain a certain list of certified surrogacy
90 agencies; reordering and amending s. 742.13, F.S.;
91 defining the terms "disqualified person" and
92 "surrogate"; revising definitions; amending s. 742.15,
93 F.S.; requiring that a contract be made between a
94 commissioning couple and a gestational surrogate or
95 surrogate before engaging in gestational surrogacy or
96 surrogacy; providing the circumstances under which
97 such contract is binding and enforceable; requiring
98 that a surrogacy contract include certain provisions;
99 creating s. 742.155, F.S.; authorizing the
100 commissioning couple and prospective gestational

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101 surrogate or surrogate to petition a court to validate
102 a surrogacy contract under certain circumstances;
103 authorizing the court to validate a surrogacy contract
104 under certain circumstances; providing the standard of
105 review for a court's determination of whether to
106 validate a surrogacy contract; amending s. 742.16,
107 F.S.; requiring a commissioning couple to petition a
108 court in a certain circuit for an expedited
109 affirmation of parental status within a certain
110 timeframe after the birth of a child delivered by a
111 gestational surrogate or surrogate; requiring the
112 clerk of the court to request and obtain certain
113 security background investigations of specified
114 parties under certain circumstances; authorizing the
115 court to order the deletion of certain names from a
116 notice of hearing and from the copy of the petition
117 attached thereto under certain circumstances;
118 requiring the commissioning couple to give certain
119 notice of hearing to the surrogate; revising the
120 circumstances under which the court is required to
121 enter an order stating that the commissioning couple
122 are the legal parents of the child; requiring that the
123 gestational surrogate or surrogate be deemed the
124 natural mother of the child and have the right to
125 certain support under certain circumstances;

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126 prohibiting the granting of time-sharing and parental
127 responsibility to the commissioning couple under
128 certain circumstances; providing that the consent of
129 the commissioning couple is not required for the
130 adoption of the child under certain circumstances;
131 providing an effective date.

132

133 Be It Enacted by the Legislature of the State of Florida:

134

135 **Section 1. Section 63.213, Florida Statutes, is amended to**
136 **read:**

137 63.213 Preplanned adoption agreement.—

138 (1) Individuals may enter into a preplanned adoption
139 arrangement as specified in this section, but the such
140 arrangement may not do any of the following in any way:

141 (a) Effect final transfer of custody of a child or final
142 adoption of a child without review and approval of the court and
143 without compliance with other applicable provisions of law.

144 (b) Constitute consent of a biological mother to place her
145 biological child for adoption until 48 hours after the birth of
146 the child and unless the court making the custody determination
147 or approving the adoption determines that the mother was aware
148 of her right to rescind within the 48-hour period after the
149 birth of the child but chose not to rescind her such consent.

150 ~~The volunteer mother's right to rescind her consent in a~~

151 preplanned adoption applies only when the child is genetically
152 related to her.

153 (c) Authorize the adoption of a child by an intended
154 parent who is a disqualified person.

155 (d) Authorize the adoption of a child conceived through a
156 gestational surrogacy or surrogacy arrangement that is governed
157 by s. 742.15.

158 (2) A preplanned adoption agreement must include, but need
159 not be limited to, all of the following terms:

160 (a) That the biological volunteer mother is pregnant and
161 agrees to become pregnant by the fertility technique specified
162 in the agreement, to bear the child, and to terminate any
163 parental rights and responsibilities to the child she might have
164 through a written consent executed at the same time as the
165 preplanned adoption agreement, subject to a right of rescission
166 by the volunteer mother any time within 48 hours after the birth
167 of the child, if the volunteer mother is genetically related to
168 the child.

169 (b) That the biological volunteer mother agrees to submit
170 to reasonable medical evaluation and treatment and to adhere to
171 reasonable medical instructions about her prenatal health.

172 (c) That the biological volunteer mother acknowledges that
173 she is aware that she will assume parental rights and
174 responsibilities for the child born to her as otherwise provided
175 by law for a mother if the intended father and intended mother

176 terminate the agreement before final transfer of custody is
177 completed, if a court determines that a parent clearly specified
178 by the preplanned adoption agreement to be the biological parent
179 is not the biological parent, or if the preplanned adoption is
180 not approved by the court pursuant to the Florida Adoption Act.

181 (d) That an intended father who is also the biological
182 father acknowledges that he is aware that he will assume
183 parental rights and responsibilities for the child as otherwise
184 provided by law for a father if the agreement is terminated for
185 any reason by any party before final transfer of custody is
186 completed or if the planned adoption is not approved by the
187 court pursuant to the Florida Adoption Act.

188 (e) That the intended father and intended mother
189 acknowledge that they may not receive custody or the parental
190 rights under the agreement if the biological volunteer mother
191 terminates the agreement or if the volunteer mother rescinds her
192 consent to place her child for adoption within 48 hours after
193 the birth of the child, if the volunteer mother is genetically
194 related to the child.

195 (e)(f) That the intended father and intended mother may
196 agree to pay all reasonable legal, medical, psychological, or
197 psychiatric expenses of the biological volunteer mother related
198 to the preplanned adoption arrangement and may agree to pay the
199 reasonable living expenses and wages lost due to the pregnancy
200 and birth of the biological volunteer mother and reasonable

201 compensation for inconvenience, discomfort, and medical risk. No
202 other compensation, whether in cash or in kind, may shall be
203 made pursuant to a preplanned adoption arrangement.

204 (f) (g) That the intended father and intended mother agree
205 to accept custody of and to assert full parental rights and
206 responsibilities for the child immediately upon the child's
207 birth, regardless of any impairment to the child.

208 (h) That the intended father and intended mother shall
209 have the right to specify the blood and tissue typing tests to
210 be performed if the agreement specifies that at least one of
211 them is intended to be the biological parent of the child.

212 (g) (i) That the agreement may be terminated at any time by
213 any of the parties.

214 (h) That the parties understand that the agreement is void
215 and that a court may not approve the proposed adoption if any
216 intended parent is a disqualified person as defined in this
217 section.

218 (3) A preplanned adoption agreement may shall not contain
219 any provision:

220 (a) To reduce any amount paid to the biological volunteer
221 mother if the child is stillborn or is born alive but impaired,
222 or to provide for the payment of a supplement or bonus for any
223 reason.

224 (b) Requiring the termination of the biological volunteer
225 mother's pregnancy.

226 (4) A pregnant female and, if married, her spouse and the
227 intended parents must have independent legal representation by
228 an attorney who is a member in good standing of The Florida Bar
229 before entering into and throughout the duration of the
230 preplanned adoption agreement regarding the terms and potential
231 legal consequences of the agreement. Each attorney must be
232 identified in the preplanned adoption agreement. A single
233 attorney for the biological mother and her spouse, if married,
234 and a single attorney for the intended parents are sufficient to
235 meet this requirement ~~An attorney who represents an intended~~
236 ~~father and intended mother or any other attorney with whom that~~
237 ~~attorney is associated shall not represent simultaneously a~~
238 ~~female who is or proposes to be a volunteer mother in any matter~~
239 ~~relating to a preplanned adoption agreement or preplanned~~
240 ~~adoption arrangement.~~

241 (5) Payment to agents, finders, and intermediaries,
242 including attorneys and physicians, as a finder's fee for
243 finding biological volunteer mothers or matching a biological
244 ~~volunteer~~ mother and intended father and intended mother is
245 prohibited. Doctors, psychologists, attorneys, and other
246 professionals may receive reasonable compensation for their
247 professional services, such as providing medical services and
248 procedures, legal advice in structuring and negotiating a
249 preplanned adoption agreement, or counseling.

250 (6) (a) After the intended parents petition a court for the

251 approval of the adoption of a child who is the subject of a
252 preplanned adoption agreement, the clerk of the court shall
253 request and obtain a level 2 security background investigation
254 as described in s. 435.04 of each of the intended parents from
255 the Department of Law Enforcement and provide the results to the
256 court.

257 (b) The court shall review the results of the security
258 background investigation and may not approve a proposed adoption
259 of a child by an intended parent who is a disqualified person.

260 (7) If a proposed adoption is denied because an intended
261 parent is a disqualified person, the biological mother retains
262 all parental rights to the child.

263 (8) As used in this section, the term:

264 (a) "Disqualified person" means a person who fails to meet
265 the level 2 screening standards under s. 435.04 "Blood and
266 tissue typing tests" include, but are not limited to, tests of
267 red cell antigens, red cell isoenzymes, human leukocyte
268 antigens, and serum proteins.

269 (b) "Child" means the child or children conceived by means
270 of a fertility technique that is part of a preplanned adoption
271 arrangement.

272 (c) "Fertility technique" means artificial embryonation,
273 artificial insemination, whether in vivo or in vitro, egg
274 donation, or embryo adoption.

275 (b)-(d) "Intended father" means a male who, as evidenced by

276 ~~a preplanned adoption agreement, intends to assert the parental~~
277 ~~rights and responsibilities for a child who is the subject of a~~
278 ~~preplanned adoption agreement conceived through a fertility~~
279 ~~technique, regardless of whether the child is biologically~~
280 ~~related to the male.~~

281 ~~(c) (e) "Intended mother" means a female who, as evidenced~~
282 ~~by a preplanned adoption agreement, intends to assert the~~
283 ~~parental rights and responsibilities for a child who is the~~
284 ~~subject of a preplanned adoption agreement conceived through a~~
285 ~~fertility technique, regardless of whether the child is~~
286 ~~biologically related to the female.~~

287 ~~(d) (f) "Party" means the intended father, the intended~~
288 ~~mother, the biological ~~volunteer~~ mother, or the biological~~
289 ~~~~volunteer~~ mother's husband, if she has a husband.~~

290 ~~(e) (g) "Preplanned adoption agreement" means a written~~
291 ~~agreement among the parties which that specifies the intent of~~
292 ~~the parties as to their rights and responsibilities in the~~
293 ~~preplanned adoption arrangement, consistent with the provisions~~
294 ~~of this section.~~

295 ~~(f) (h) "Preplanned adoption arrangement" means the~~
296 ~~arrangement through which the parties enter into an agreement~~
297 ~~for the biological ~~volunteer~~ mother to bear the child, for~~
298 ~~payment by the intended father and intended mother of the~~
299 ~~expenses allowed by this section, for the intended father and~~
300 ~~intended mother to assert full parental rights and~~

301 responsibilities to the child if consent to adoption is not
302 rescinded after birth by a biological ~~volunteer~~ mother ~~who is~~
303 ~~genetically related to the child, and for the biological~~
304 ~~volunteer~~ mother to terminate, subject to any right of
305 rescission, all her parental rights and responsibilities to the
306 child in favor of the intended father and intended mother.

307 (i) "Volunteer mother" means a female at least 18 years of
308 age who voluntarily agrees, subject to a right of rescission if
309 it is her biological child, that if she should become pregnant
310 pursuant to a preplanned adoption arrangement, she will
311 terminate her parental rights and responsibilities to the child
312 in favor of the intended father and intended mother.

313 **Section 2. Section 383.61, Florida Statutes, is created to**
314 **read:**

315 383.61 Assisted reproduction facilities.—

316 (1) DEFINITIONS.—As used in this section, the term:

317 (a) "Agency" means the Agency for Health Care
318 Administration.

319 (b) "Assisted reproductive technology" means procreative
320 procedures which involve the laboratory handling of human eggs,
321 sperm, or preembryos, including, but not limited to, in vitro
322 fertilization embryo transfer, gamete intrafallopian transfer,
323 pronuclear stage transfer, tubal embryo transfer, and zygote
324 intrafallopian transfer.

325 (c) "Commissioning couple" means the intended father and

326 mother of a child who will be conceived by means of assisted
327 reproductive technology using the eggs or sperm of at least one
328 of the intended parents.

329 (d) "Department" means the Department of Health.

330 (e) "Disqualified person" means a person who fails to meet
331 the level 2 screening standards under s. 435.04.

332 (f) "Donor" means a person who donates reproductive
333 material, regardless of whether the donation is for personal use
334 or for compensation. The term does not include an intended
335 mother or intended father who provides eggs or sperm,
336 respectively, to be used for assisted reproduction.

337 (g) "Donor bank" means any facility that collects
338 reproductive material from donors for use by a fertility clinic.

339 (h) "Egg" means the unfertilized female reproductive cell.

340 (i) "Fertility clinic" means a facility in which
341 reproductive materials are subject to assisted reproductive
342 technology for the purpose of implantation.

343 (j) "Health care practitioner" has the same meaning as in
344 s. 456.001.

345 (k) "Preembryo" means the product of fertilization of an
346 egg by a sperm until the appearance of the embryonic axis.

347 (l) "Recipient" means a person who receives, through
348 implantation, reproductive material from a donor.

349 (m) "Reproductive material" means any human egg, sperm, or
350 preembryo.

351 (n) "Sperm" means the male reproductive cell.

352 (o) "Surrogacy agency" means a person who is certified
353 pursuant to s. 402.89 and is in the business of matching,
354 supervising, or coordinating intended parents, gestational
355 surrogates, and surrogates as defined in s. 402.89; providing
356 case management, screening, or counseling services to intended
357 parents, gestational surrogates, or surrogates; or referring
358 intended parents, gestational surrogates, and surrogates to
359 third-party reproductive services.

360 (p) "Third-party reproductive services" means services
361 offered by a donor bank or fertility clinic licensed under this
362 section related to the use of eggs, sperm, or preembryos that
363 have been donated by a person to enable a couple to become
364 parents. The term includes services related to gestational
365 surrogacy and surrogacy arrangements.

366 (2) RULES.—By December 31, 2026, the agency, in
367 consultation with the department, shall adopt rules establishing
368 all of the following for donor banks and fertility clinics:

369 (a) Minimum laboratory standards for embryology,
370 cryopreservation, and specimen handling.

371 (b) Minimum training requirements for embryologists and
372 laboratory staff.

373 (c) Licensure application and renewal procedures and
374 documentation requirements.

375 (d) Sanitation and infection control requirements.

376 (e) Standards for storing, monitoring, and securing
377 reproductive material.

378 (f) The format and required content of patient
379 disclosures.

380 (g) Incident reporting procedures and thresholds.

381 (3) LICENSURE.—A donor bank or fertility clinic may not
382 operate without a license issued by the agency under this
383 section. Donor banks and fertility clinics in operation as of
384 the date that rules initially adopted under this section become
385 effective shall have 6 months from that date to become licensed.
386 A license is valid for 2 years unless suspended or revoked for
387 cause.

388 (4) BEST PRACTICE POLICIES.—

389 (a) By January 1, 2027, each donor bank, fertility clinic,
390 and health care practitioner who provides assisted reproductive
391 technology in this state shall develop written best practice
392 policies consistent with 42 U.S.C. s. 263a(f).

393 (b) Such best practice policies must be submitted to the
394 appropriate licensing agency or department annually for review.

395 (c) All reproductive material stored by a donor bank,
396 fertility clinic, or health care practitioner must be clearly
397 labeled.

398 (d) A donor bank, fertility clinic, or health care
399 practitioner shall maintain all records for at least 30 years.

400 (5) INSPECTIONS.—The agency shall perform annual

401 inspections of donor banks and fertility clinics.

402 (6) PENALTIES.—A donor bank or fertility clinic in
403 violation of subsection (3) or subsection (4) is subject to the
404 penalties provided in s. 400.995. The agency may refer
405 violations involving health care practitioners to the department
406 for disciplinary action under chapter 456.

407 (7) DISCLOSURE REQUIREMENTS.—A fertility clinic shall
408 obtain express and informed consent from all participants
409 regarding the proposed treatment, procedure, or process related
410 to services that will be provided by the clinic.

411 (a) A fertility clinic shall provide to a participant a
412 written document that is in plain language and includes, at a
413 minimum, all of the following:

414 1. A description of the known and potential risks,
415 consequences, and benefits of assisted reproductive technology.

416 2. A statement that there may be foreseen or unforeseen
417 legal consequences and that it is advisable to seek independent
418 legal counsel.

419 3. A description of applicable confidentiality protections
420 and a statement that such protections apply to the extent
421 allowed by law.

422 4. A statement that a participant has access to all of his
423 or her medical records to the extent allowed by law and may
424 request copies of such records from the fertility clinic. The
425 fertility clinic may charge reasonable fees for copies of such

426 records as authorized by law.

427 5. If applicable, a disclosure that a commissioning couple
428 has the right to access a summary of medical and psychological
429 information about donors and gestational surrogates.

430 6. The policy of the fertility clinic, if applicable,
431 regarding the number of embryos transferred and any limitation
432 on the number of embryos transferred, as well as the existence
433 of national guidelines as published by the American Society for
434 Reproductive Medicine and the Society for Assisted Reproductive
435 Technology.

436 7. Information generally explaining and clarifying
437 parental rights of all participants.

438 8. Any other disclosures required by state or federal law.

439 9. A statement that all disclosures have been made
440 pursuant to this subsection.

441 (b) A participant gives express and informed consent by
442 signing the written document required under paragraph (a). In
443 order for the express and informed consent to be valid, the
444 document must meet all of the following requirements:

445 1. Be dated and signed by the fertility clinic and the
446 participant.

447 2. Specify the length of time that the consent remains
448 valid.

449 3. Advise the participant signing the document of the
450 right to receive a copy of the document.

451 (8) NOTICE OF DISQUALIFIED PERSON.—If a donor bank or
452 fertility clinic receives notice from a surrogacy agency that a
453 donor, a participant, or an intended parent is a disqualified
454 person, the donor bank or fertility clinic must immediately
455 cease using any reproductive material retained by the donor bank
456 or fertility clinic pertaining to that individual.

457 **Section 3. Section 402.89, Florida Statutes, is created to**
458 **read:**

459 402.89 Surrogacy agencies.—

460 (1) DEFINITIONS.—As used in this section, the term:

461 (a) "Commissioning couple" means the intended father and
462 mother of a child who will be conceived by means of assisted
463 reproductive technology as defined in s. 383.61 using the eggs
464 or sperm of at least one of the intended parents.

465 (b) "Department" means the Department of Children and
466 Families.

467 (c) "Disqualified person" means a person who fails to meet
468 the level 2 screening standards under s. 435.04.

469 (d) "Gestational surrogate" means a woman who contracts to
470 become pregnant by means of assisted reproductive technology as
471 defined in s. 383.61 without the use of an egg from her body and
472 with the use of an egg or sperm from the commissioning couple.

473 (e) "Participant" means an individual who provides a
474 biological or genetic component of assisted reproduction or a
475 commissioning couple.

476 (f) "Surrogacy agency" means a person who is in the
477 business of matching, supervising, or coordinating intended
478 parents and surrogates; providing case management, screening, or
479 counseling services to commissioning couples or surrogates; or
480 referring commissioning couples and surrogates to third-party
481 reproductive services.

482 (g) "Surrogacy contract" means a written agreement between
483 the commissioning couple and the gestational surrogate or
484 surrogate.

485 (h) "Surrogate" means a woman who contracts to become
486 pregnant by means of assisted reproductive technology as defined
487 in s. 383.61 with the use of an egg from her body.

488 (i) "Third-party reproductive services" means services
489 offered by a donor bank or fertility clinic licensed under s.
490 383.61 related to the use of eggs, sperm, or preembryos that
491 have been donated by a person to enable a couple to become
492 parents. The term includes services related to gestational
493 surrogacy and surrogacy arrangements.

494 (2) GENERAL REQUIREMENTS.—A surrogacy agency shall do all
495 of the following:

496 (a) Require all participants to undergo a mental health
497 evaluation by a mental health professional licensed under
498 chapter 490 or chapter 491, and to undergo a subsequent
499 evaluation every 2 years thereafter as long as the participant
500 remains in the surrogacy agency's database or continues to

501 contract for services with the surrogacy agency. The surrogacy
502 agency shall request from the mental health professional
503 performing the evaluation a written statement that the mental
504 health professional has met with and cleared the participant for
505 continued participation in the surrogacy process. The surrogacy
506 agency shall retain a copy of the written statement for each
507 participant. The surrogacy agency shall require all participants
508 to sign a release authorizing the surrogacy agency to obtain the
509 results of the mental health evaluation.

510 (b) Require all donors, gestational surrogates, and
511 surrogates to undergo a medical evaluation by a physician
512 licensed under chapter 458 or chapter 459. The surrogacy agency
513 shall request from the physician performing the evaluation a
514 written statement that the physician has met with and cleared
515 the donor, gestational surrogate, or surrogate for continued
516 participation in the surrogacy process. The surrogacy agency
517 shall retain a copy of the written statement for each donor,
518 gestational surrogate, or surrogate. The surrogacy agency shall
519 require all donors, gestational surrogates, and surrogates to
520 sign a release authorizing the surrogacy agency to obtain the
521 results of the medical evaluation.

522 (c) Obtain a level 2 security background investigation
523 consistent with s. 435.04 from the department through the Care
524 Provider Background Screening Clearinghouse under s. 435.12, and
525 obtain an updated security background investigation every 5

526 years thereafter as long as the participant remains in the
527 surrogacy agency's database or is still contracting for services
528 with the surrogacy agency.

529 1. For a donor or surrogate, the surrogacy agency shall
530 obtain the security background investigation before listing the
531 donor or surrogate in the surrogacy agency's database of
532 potential donors or surrogates.

533 2. For a commissioning couple, the surrogacy agency shall
534 obtain the security background investigation before entering
535 into a contract with the commissioning couple to provide
536 database or matching services or referrals for third-party
537 reproductive services.

538 3. If the security background investigation finds that an
539 individual is a disqualified person, the surrogacy agency must
540 terminate any existing contract involving the individual, remove
541 the individual from the surrogacy agency's database, and notify
542 the donor bank or fertility clinic of the individual's status as
543 a disqualified person.

544 (d) Require a written contract as provided in subsection
545 (4) between the commissioning couple and the surrogacy agency.

546 (e) Require that all surrogacy contracts pursuant to s.
547 742.15 between the commissioning couple and the gestational
548 surrogate or surrogate be in writing and require the
549 commissioning couple and gestational surrogate or surrogate to
550 undergo a legal consultation with an attorney who is a member in

551 good standing of The Florida Bar regarding the terms and
552 potential legal consequences of the surrogacy contract.

553 (f) Keep and maintain all funds that are to be used for
554 the compensation of a donor, gestational surrogate, or surrogate
555 in an account that is separate and apart from the surrogacy
556 agency's business accounts as specified in subsection (3).

557 (3) SECURITY REQUIREMENTS.—A surrogacy agency that
558 requires or receives payment from a participant shall establish
559 and maintain a mechanism for ensuring that those funds are
560 properly maintained.

561 (a) The surrogacy agency shall establish an escrow account
562 with an independent escrow agent and deposit into the account
563 all payments received by the surrogacy agency from a
564 commissioning couple. The surrogacy agency is not required to
565 deposit into the escrow account payments received from a
566 commissioning couple which relate to the compensation and
567 operation of the agency.

568 (b) The surrogacy agency shall establish the escrow
569 account in a bank, savings and loan association, or trust
570 company incorporated under the laws of this state or with an
571 attorney who is a member in good standing of The Florida Bar.

572 (c) The escrow agent shall disburse funds from the escrow
573 account only upon receipt of an affidavit from the surrogacy
574 agency specifying the purpose for which the disbursement is
575 requested. The escrow agent is entitled to rely upon the

576 affidavit of the surrogacy agency and has no obligation to
577 independently ascertain the propriety of the requested
578 disbursement so long as the escrow agent has no actual knowledge
579 that the affidavit is false in any respect. The escrow agent
580 shall retain all affidavits received pursuant to this paragraph
581 for 5 years.

582 (d) The escrow agent shall maintain the account in such a
583 manner that it is under the direct supervision and control of
584 the escrow agent. The escrow agent has a fiduciary duty to each
585 participant to maintain the escrow account in accordance with
586 good accounting principles and to release funds from escrow only
587 in accordance with this subsection. If the escrow agent receives
588 conflicting demands for the escrowed funds, the escrow agent may
589 not disburse any funds and must immediately notify the surrogacy
590 agency and the affected participant of the dispute.

591 (e) Failure of a surrogacy agency to place funds in an
592 escrow account within 10 days after receipt of the funds is
593 prima facie evidence of a violation of this subsection.

594 (4) CONTRACT REQUIREMENTS.—A contract entered into by a
595 surrogacy agency and a participant to provide database or
596 matching services or referrals for third-party reproductive
597 services must be in writing. The written contract must contain
598 all provisions, requirements, and prohibitions required by this
599 subsection before it is signed by the participant. The surrogacy
600 agency shall provide a copy of the signed contract to the

601 participant at the time the participant signs the contract and
602 shall provide another copy to the donor bank or fertility clinic
603 licensed under s. 383.61. A contract to provide database or
604 matching services or referrals for third-party reproductive
605 services must include all of the following:

606 (a) The participant's total payment obligation for
607 services to be received pursuant to the contract.

608 (b) The agreed-upon payment plan, if the contract calls
609 for payment in installments.

610 (c) All contracted services, set forth in specific terms.

611 (d) Prescribed in bold-faced type and under conspicuous
612 caption, all cancellation provisions of the contract.

613 (e) The length of time that the contract remains valid and
614 the circumstances under which the contract is terminated.

615 (5) RULES.—By December 31, 2026, the department shall
616 adopt rules to implement this section and establish minimum
617 standards for the certification and operation of surrogacy
618 agencies. The rules must include, at a minimum, all of the
619 following:

620 (a) Requirements for screening of participants.

621 (b) Requirements for background screening of surrogacy
622 agency personnel.

623 (c) Financial responsibility standards.

624 (d) Confidentiality and recordkeeping standards, including
625 retention of records.

626 (e) Training requirements for surrogacy agency staff on
627 surrogacy ethics, legal risks, counseling, and conflict
628 management.

629 (f) Procedures for complaint handling, corrective action
630 plans, and sanctions.

631 (6) CERTIFICATION.—

632 (a) A surrogacy agency operating in this state must apply
633 for and maintain certification issued by the department.
634 Surrogacy agencies in operation as of the date that rules
635 initially adopted under this section become effective shall have
636 6 months from that date to become certified. A certification is
637 valid for 2 years, unless suspended or revoked for cause. The
638 department shall inspect a surrogacy agency applying for
639 certification before initial certification, and at least
640 annually thereafter, to verify compliance with certification
641 standards.

642 (b) If a surrogacy agency fails to comply with this
643 section or the rules adopted under this section, the department
644 may take administrative action, including, but not limited to,
645 authorization of continued operation under a corrective action
646 plan, imposition of administrative fines, and suspension or
647 revocation of certification.

648 (7) CERTIFIED SURROGACY AGENCIES LIST.—The department
649 shall maintain a publicly accessible list of certified surrogacy
650 agencies, including the certification status of such agencies.

651 **Section 4.** Section 742.13, Florida Statutes, is reordered
652 and amended to read:

653 742.13 Definitions.—As used in ss. 742.11-742.17, the
654 term:

655 (1) "Assisted reproductive technology" means those
656 procreative procedures which involve the laboratory handling of
657 human eggs, sperm, or preembryos, including, but not limited to,
658 in vitro fertilization embryo transfer, gamete intrafallopian
659 transfer, pronuclear stage transfer, tubal embryo transfer, and
660 zygote intrafallopian transfer.

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

665 (3) "Disqualified person" means a person who fails to meet
666 the level 2 screening standards under s. 435.04.

667 (4) ~~(3)~~ "Egg" means the unfertilized female reproductive
668 cell.

669 (5) ~~(4)~~ "Fertilization" means the initial union of an egg
670 and sperm.

671 (8) ~~(5)~~ "Gestational surrogate" means a woman who contracts
672 to become pregnant by means of assisted reproductive technology
673 without the use of an egg from her body and with the use of an
674 egg or sperm from the commissioning couple.

675 (7) ~~(6)~~ "Gestational surrogacy" means a state that results

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676 from a process in which a commissioning couple's eggs or sperm,
677 or both, are mixed in vitro and the resulting preembryo is
678 implanted within another woman's body.

679 (15) ~~(7)~~ "Gestational Surrogacy contract" means a written
680 agreement between the gestational surrogate or surrogate and the
681 commissioning couple.

682 (6) ~~(8)~~ "Gamete intrafallopian transfer" means the direct
683 transfer of eggs and sperm into the fallopian tube prior to
684 fertilization.

685 (9) "Implantation" means the event that occurs when a
686 fertilized egg adheres to the uterine wall for nourishment.

687 (10) "In vitro" refers to a laboratory procedure performed
688 in an artificial environment outside a woman's body.

689 (11) "In vitro fertilization embryo transfer" means the
690 transfer of an in vitro fertilized preembryo into a woman's
691 uterus.

692 (12) "Preembryo" means the product of fertilization of an
693 egg by a sperm until the appearance of the embryonic axis.

694 (13) "Pronuclear stage transfer" or "zygote intrafallopian
695 transfer" means the transfer of an in vitro fertilized preembryo
696 into the fallopian tube before cell division takes place.

697 (14) "Sperm" means the male reproductive cell.

698 (16) "Surrogate" means a woman who contracts to become
699 pregnant by means of assisted reproductive technology with the
700 use of an egg from her body.

701 (17) ~~(15)~~ "Tubal embryo transfer" means the transfer of a
702 dividing, in vitro fertilized preembryo into the fallopian tube.

703 **Section 5. Subsections (1), (2), and (3) of section**

704 **742.15, Florida Statutes, are amended to read:**

705 742.15 ~~Gestational~~ Surrogacy contract.—

706 (1) Before ~~Prior to~~ engaging in gestational surrogacy or
707 surrogacy, a binding and enforceable ~~gestational~~ surrogacy
708 contract must ~~shall~~ be made between the commissioning couple and
709 the gestational surrogate or ~~surrogate~~. A contract for
710 ~~gestational~~ surrogacy is ~~shall~~ not be binding and enforceable
711 unless:

712 (a) The gestational surrogate or ~~surrogate~~ is 18 years of
713 age or older and is not a disqualified person; and

714 (b) The commissioning couple are legally married and are
715 both 18 years of age or older;

716 (c) Neither member of the commissioning couple is a
717 disqualified person;

718 (d) Each member of the commissioning couple is a United
719 States citizen, a lawful and permanent resident of the United
720 States, or domiciled in this state and lawfully present in the
721 United States under federal law;

722 (e) The gestational surrogate or surrogate is domiciled in
723 this state and is a United States citizen or lawful permanent
724 resident of the United States; and

725 (f) The contract was drafted by an attorney who is a

726 member in good standing of The Florida Bar.

727 (2) The commissioning couple may ~~shall~~ enter into a
728 contract with a gestational surrogate only if ~~when~~, within
729 reasonable medical certainty as determined and stated in a
730 written statement under oath by a physician licensed under
731 chapter 458 or chapter 459:

732 (a) The commissioning mother cannot physically gestate a
733 pregnancy to term;

734 (b) The gestation will cause a risk to the physical health
735 of the commissioning mother; or

736 (c) The gestation will cause a risk to the health of the
737 fetus.

738 (3) A ~~gestational~~ surrogacy contract must include the
739 following provisions, as applicable:

740 (a) The commissioning couple agrees that the gestational
741 surrogate or ~~surrogate is~~ ~~shall~~ be the sole source of consent
742 with respect to clinical intervention and management of the
743 pregnancy.

744 (b) The gestational surrogate or ~~surrogate~~ agrees to
745 submit to reasonable medical evaluation and treatment and to
746 adhere to reasonable medical instructions about her prenatal
747 health.

748 (c) The commissioning couple agrees not to reduce any
749 amount paid to the gestational surrogate or surrogate if the
750 child is stillborn or is born alive but impaired, or to provide

751 for the payment of a supplement or bonus for any reason.

752 (d) The commissioning couple agrees that they may not
753 require the termination of the gestational surrogate's or
754 surrogate's pregnancy.

755 (e) Except as provided in paragraph (g) (e), the
756 gestational surrogate or surrogate agrees to relinquish any
757 parental rights upon the child's birth and to proceed with the
758 judicial proceedings prescribed under s. 742.16.

759 (f) (d) Except as provided in paragraph (g) (e), the
760 commissioning couple agrees to accept custody of and to assume
761 full parental rights and responsibilities for the child
762 immediately upon the child's birth, regardless of any impairment
763 of the child.

764 (g) (e) The gestational surrogate agrees to assume parental
765 rights and responsibilities for the child born to her if it is
766 determined that neither member of the commissioning couple is
767 the genetic parent of the child.

768 (h) The parties understand that the surrogacy contract is
769 void and that a court may not affirm the parentage of the
770 commissioning couple if a member of the commissioning couple is
771 a disqualified person as defined in s. 742.13.

772 **Section 6. Section 742.155, Florida Statutes, is created**
773 **to read:**

774 742.155 Preconception validation of surrogacy contract.—
775 (1) The commissioning couple and the prospective

776 gestational surrogate or surrogate may petition a court to
777 validate a surrogacy contract if:

778 (a) The prospective gestational surrogate or surrogate or
779 the commissioning couple has resided in this state for the 90-
780 day period preceding the date the petition is filed;

781 (b) The prospective gestational surrogate's or surrogate's
782 husband, if she is married, is joined as a party to the
783 proceeding; and

784 (c) A copy of the surrogacy contract is attached to the
785 petition.

786 (2) The court may validate a surrogacy contract as
787 provided by subsection (3) only if the court finds that:

788 (a) The medical evidence provided for a contract with a
789 gestational surrogate shows that:

790 1. The commissioning mother cannot physically gestate a
791 pregnancy to term;

792 2. The gestation will cause a risk to the physical health
793 of the commissioning mother; or

794 3. The gestation will cause a risk to the health of the
795 fetus;

796 (b) A favorable preliminary home study of the intended
797 parents has been performed consistent with s. 63.092;

798 (c) Each party to the contract has voluntarily entered
799 into and understands the terms of the contract;

800 (d) The contract includes the provisions required by s.

801 742.15 and does not include any prohibited provisions;

802 (e) None of the parties to the contract are disqualified
803 persons; and

804 (f) The parties have adequately specified which party is
805 responsible for all reasonable health care expenses associated
806 with the pregnancy, including specifying which party is
807 responsible for such expenses if the contract is terminated.

808 (3) If the court finds that the requirements of subsection
809 (2) are satisfied, the court may render an order validating the
810 surrogacy contract and declaring that the commissioning couple
811 will be the parents of a child born under the agreement, except
812 as provided in s. 742.16 relating to proceedings to affirm the
813 parental status of a child conceived through gestational
814 surrogacy or surrogacy.

815 (4) The court may validate the surrogacy contract at the
816 court's discretion. The court's determination of whether to
817 validate the surrogacy contract is subject to review only for
818 abuse of discretion.

819 **Section 7. Present subsections (7), (8), and (9) of**
820 **section 742.16, Florida Statutes, are redesignated as**
821 **subsections (8), (9), and (10), respectively, a new subsection**
822 **(7) is added to that section, and subsections (1) and (3),**
823 **paragraph (a) of subsection (4), subsection (6), and present**
824 **subsections (7) and (8) of that section are amended, to read:**

825 742.16 Expedited affirmation of parental status for

826 gestational surrogacy.—

827 (1) Within 3 days after the birth of a child delivered of
828 a gestational surrogate or surrogate, the commissioning couple
829 shall petition a court of competent jurisdiction in the circuit
830 where the commissioning couple or gestational surrogate or
831 surrogate resides for an expedited affirmation of parental
832 status. After a commissioning couple petitions the court for the
833 affirmation of parental status, the clerk of the court shall
834 request and obtain a level 2 security background investigation
835 as described in s. 435.04 of the commissioning couple from the
836 Department of Law Enforcement and provide the results to the
837 court.

838 (3) Upon a showing by the commissioning couple, or the
839 child, or the gestational surrogate or surrogate that privacy
840 rights may be endangered, the court may order the names of the
841 commissioning couple, or the child, or the gestational surrogate
842 or surrogate, or any combination thereof, to be deleted from the
843 notice of hearing and from the copy of the petition attached
844 thereto, provided the substantive rights of any person will not
845 thereby be affected.

846 (4) Notice of the hearing shall be given by the
847 commissioning couple to:

848 (a) The gestational surrogate or surrogate.

849 (6) The commissioning couple or their legal representative
850 shall appear at the hearing on the petition. At the conclusion

851 of the hearing, the court shall enter an order stating that the
852 commissioning couple are the legal parents of the child if the
853 court determines that:

854 (a) after the court has determined that A binding and
855 enforceable ~~gestational~~ surrogacy contract has been executed
856 pursuant to s. 742.15;

857 (b) and that At least one member of the commissioning
858 couple is the genetic parent of the child, if the child was to
859 have been conceived pursuant to a surrogacy contract with a
860 gestational surrogate; and

861 (c) Neither the intended mother nor the intended father is
862 a disqualified person ~~the court shall enter an order stating~~
863 ~~that the commissioning couple are the legal parents of the~~
864 ~~child.~~

865 (7) If the affirmation of parentage is denied because a
866 member of the commissioning couple is a disqualified person:

867 (a) The gestational surrogate or surrogate shall be deemed
868 the natural mother of the child and have the right to child
869 support from the commissioning couple;

870 (b) The commissioning couple may not be granted time-
871 sharing or parental responsibility; and

872 (c) The consent of the commissioning couple is not
873 required for the adoption of the child.

874 (8)-(7) If ~~When~~ at least one member of the commissioning
875 couple is the genetic parent of the child born to a gestational

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876 surrogate or surrogate, the commissioning couple shall be
877 presumed to be the natural parents of the child.

878 (9) ~~(8)~~ Within 30 days after entry of the order affirming
879 the parental status of the commissioning couple, the clerk of
880 the court shall prepare a certified statement of the order for
881 the state registrar of vital statistics on a form provided by
882 the registrar. The court shall thereupon enter an order
883 requiring the Department of Health to issue a new birth
884 certificate naming the commissioning couple as parents and
885 requiring the department to seal the original birth certificate.

886 **Section 8.** This act shall take effect July 1, 2026.