

1                           A bill to be entitled  
2       An act relating to surrogacy and assisted  
3       reproduction; amending s. 63.213, F.S.; providing that  
4       a preplanned adoption arrangement may not authorize  
5       certain actions under certain circumstances; revising  
6       required and prohibited preplanned adoption agreement  
7       terms; requiring certain parties to have independent  
8       legal representation by an attorney who meets certain  
9       requirements; requiring a clerk of the court to  
10      request and obtain certain background investigations  
11      of specified parties under certain circumstances;  
12      prohibiting the court from approving a proposed  
13      adoption of a child under certain circumstances;  
14      providing that the biological mother of a child  
15      retains all parental rights to the child under certain  
16      circumstances; defining the term "disqualified  
17      person"; revising and deleting definitions; conforming  
18      provisions to changes made by the act; creating s.  
19      383.61, F.S.; defining terms; requiring the Agency for  
20      Health Care Administration, in consultation with the  
21      Department of Health, to adopt certain rules for donor  
22      banks and fertility clinics by a specified date;  
23      prohibiting a donor bank or fertility clinic from  
24      operating without a license; providing an exception;  
25      providing that licenses are valid for a specified

timeframe unless suspended or revoked for cause;  
requiring donor banks, fertility clinics, and certain  
health care practitioners to develop certain written  
best practice policies by a specified date; requiring  
such donor banks, fertility clinics, and health care  
practitioners to submit such policies to specified  
entities for annual review; requiring such donor  
banks, fertility clinics, and health care  
practitioners to clearly label specified material and  
maintain all records for a specified timeframe;  
requiring the agency to perform certain annual  
inspections; providing administrative penalties for  
donor banks and fertility clinics that violate certain  
provisions; authorizing the agency to refer certain  
violations to the department; requiring fertility  
clinics to obtain express and informed consent from  
all participants; requiring fertility clinics to  
provide a certain written document to participants;  
specifying the manner in which a participant gives  
express and informed consent; requiring donor banks  
and fertility clinics to immediately cease using  
certain reproductive material under certain  
circumstances; creating s. 402.89, F.S.; defining  
terms; requiring surrogacy agencies to require all  
participants to undergo certain mental health

51        evaluations; requiring that such evaluations be  
52        repeated at specified intervals under certain  
53        circumstances; requiring surrogacy agencies to require  
54        donors, gestational surrogates, and surrogates to  
55        undergo certain medical evaluations; specifying  
56        requirements relating to such evaluations; requiring  
57        surrogacy agencies to obtain level 2 security  
58        background investigations for participants from the  
59        Department of Children and Families through the Care  
60        Provider Background Screening Clearinghouse; requiring  
61        that such investigations be updated at specified  
62        intervals under certain circumstances; specifying  
63        requirements relating to such security background  
64        investigations; requiring a surrogacy agency to  
65        terminate any existing contract involving an  
66        individual found to be a disqualified person and take  
67        certain additional actions; requiring that a written  
68        contract be made between a surrogacy agency and a  
69        commissioning couple; specifying requirements for such  
70        surrogacy contracts; requiring surrogacy agencies to  
71        keep and maintain certain funds in separate accounts  
72        and maintain a certain mechanism for a certain  
73        purpose; requiring surrogacy agencies to establish  
74        escrow accounts for a certain purpose; specifying  
75        requirements for such escrow accounts and escrow

agents; specifying requirements for certain contracts entered into by surrogacy agencies and participants; requiring the Department of Children and Families to adopt certain rules by a specified date; requiring surrogacy agencies to apply for and maintain certification issued by the department; providing that such certification is valid for a specified timeframe unless suspended or revoked for cause; requiring the department to conduct certain inspections; authorizing the department to impose corrective action plans or administrative fines upon surrogacy agencies or suspend or revoke surrogacy agency certification under certain circumstances; requiring the department to maintain a certain list of certified surrogacy agencies; reordering and amending s. 742.13, F.S.; defining the terms "disqualified person" and "surrogate"; revising definitions; amending s. 742.15, F.S.; requiring that a contract be made between a commissioning couple and a gestational surrogate or surrogate before engaging in gestational surrogacy or surrogacy; providing the circumstances under which such contract is binding and enforceable; requiring that a surrogacy contract include certain provisions; creating s. 742.155, F.S.; authorizing the commissioning couple and prospective gestational

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;

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

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

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

63.213 Preplanned adoption agreement.—

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

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

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

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

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

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

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

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

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

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

(c) That the biological ~~volunteer~~ mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided 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

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

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

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

383.61 Assisted reproduction facilities.—

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

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

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

(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



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

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

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

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

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

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

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

(a) Requirements for screening of participants.

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

(c) Financial responsibility standards.

(d) Confidentiality and recordkeeping standards, including 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.

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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

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.



742.15 and does not include any prohibited provisions;

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

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

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

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

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

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

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.