

By Senator Grall

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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  
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

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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 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

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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  
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

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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  
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

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attached thereto under certain circumstances;  
requiring the commissioning couple to give certain  
notice of hearing to the surrogate; revising the  
circumstances under which the court is required to  
enter an order stating that the commissioning couple  
are the legal parents of the child; requiring that the  
gestational surrogate or surrogate be deemed the  
natural mother of the child and have the right to  
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

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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

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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.

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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 have~~  
209 ~~the right to specify the blood and tissue typing tests to be~~  
210 ~~performed if the agreement specifies that at least one of them~~  
211 ~~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



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attorney for the biological mother and her spouse, if married,  
and a single attorney for the intended parents are sufficient to  
meet this requirement ~~An attorney who represents an intended  
father and intended mother or any other attorney with whom that  
attorney is associated shall not represent simultaneously a  
female who is or proposes to be a volunteer mother in any matter  
relating to a preplanned adoption agreement or preplanned  
adoption arrangement.~~

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

(6) (a) After the intended parents petition a court for the  
approval of the adoption of a child who is the subject of a  
preplanned adoption agreement, the clerk of the court shall  
request and obtain a level 2 security background investigation  
as described in s. 435.04 of each of the intended parents from  
the Department of Law Enforcement and provide the results to the  
court.

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

(7) If a proposed adoption is denied because an intended  
parent is a disqualified person, the biological mother retains

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all parental rights to the child.

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

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

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

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

~~(b)(d)~~ "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to assert the parental rights and responsibilities for a child who is the subject of a preplanned adoption agreement ~~conceived through a fertility technique, regardless of whether the child is biologically related to the male.~~

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

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

~~(e)(g)~~ "Preplanned adoption agreement" means a written

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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

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

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

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

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

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

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

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

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

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

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

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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.

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

379       (g) Incident reporting procedures and thresholds.

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

387       (4) BEST PRACTICE POLICIES.—

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

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

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

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

399       (5) INSPECTIONS.—The agency shall perform annual  
400 inspections of donor banks and fertility clinics.

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

406       (7) DISCLOSURE REQUIREMENTS.—A fertility clinic shall

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407 obtain express and informed consent from all participants  
408 regarding the proposed treatment, procedure, or process related  
409 to services that will be provided by the clinic.

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

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

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

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

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

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

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

435 7. Information generally explaining and clarifying parental

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rights of all participants.

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

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

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

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

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

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

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

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

402.89 Surrogacy agencies.—

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

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

(b) "Department" means the Department of Children and



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465 Families.

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

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

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

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

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

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

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

493 (2) GENERAL REQUIREMENTS.—A surrogacy agency shall do all

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of the following:

(a) Require all participants to undergo a mental health evaluation by a mental health professional licensed under chapter 490 or chapter 491, and to undergo a subsequent evaluation every 2 years thereafter as long as the participant remains in the surrogacy agency's database or continues to contract for services with the surrogacy agency. The surrogacy agency shall request from the mental health professional performing the evaluation a written statement that the mental health professional has met with and cleared the participant for continued participation in the surrogacy process. The surrogacy agency shall retain a copy of the written statement for each participant. The surrogacy agency shall require all participants to sign a release authorizing the surrogacy agency to obtain the results of the mental health evaluation.

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

(c) Obtain a level 2 security background investigation consistent with s. 435.04 from the department through the Care

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Provider Background Screening Clearinghouse under s. 435.12, and obtain an updated security background investigation every 5 years thereafter as long as the participant remains in the surrogacy agency's database or is still contracting for services with the surrogacy agency.

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

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

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

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

(e) Require that all surrogacy contracts pursuant to s. 742.15 between the commissioning couple and the gestational surrogate or surrogate be in writing and require the commissioning couple and gestational surrogate or surrogate to undergo a legal consultation with an attorney who is a member in good standing of The Florida Bar regarding the terms and potential legal consequences of the surrogacy contract.

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

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

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

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

571       (c) The escrow agent shall disburse funds from the escrow  
572 account only upon receipt of an affidavit from the surrogacy  
573 agency specifying the purpose for which the disbursement is  
574 requested. The escrow agent is entitled to rely upon the  
575 affidavit of the surrogacy agency and has no obligation to  
576 independently ascertain the propriety of the requested  
577 disbursement so long as the escrow agent has no actual knowledge  
578 that the affidavit is false in any respect. The escrow agent  
579 shall retain all affidavits received pursuant to this paragraph  
580 for 5 years.

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

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

593       (4) CONTRACT REQUIREMENTS.—A contract entered into by a  
594 surrogacy agency and a participant to provide database or  
595 matching services or referrals for third-party reproductive  
596 services must be in writing. The written contract must contain  
597 all provisions, requirements, and prohibitions required by this  
598 subsection before it is signed by the participant. The surrogacy  
599 agency shall provide a copy of the signed contract to the  
600 participant at the time the participant signs the contract and  
601 shall provide another copy to the donor bank or fertility clinic  
602 licensed under s. 383.61. A contract to provide database or  
603 matching services or referrals for third-party reproductive  
604 services must include all of the following:

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

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

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

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

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

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

618       (a) Requirements for screening of participants.

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

621       (c) Financial responsibility standards.

622       (d) Confidentiality and recordkeeping standards, including  
623 retention of records.

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

627       (f) Procedures for complaint handling, corrective action  
628 plans, and sanctions.

629       (6) CERTIFICATION.—

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

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standards.

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

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

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

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

(1) "Assisted reproductive technology" means those 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.

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

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

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

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

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668       ~~(8)~~<sup>(5)</sup> "Gestational surrogate" means a woman who contracts  
669 to become pregnant by means of assisted reproductive technology  
670 without the use of an egg from her body and with the use of an  
671 egg or sperm from the commissioning couple.

672       ~~(7)~~<sup>(6)</sup> "Gestational surrogacy" means a state that results  
673 from a process in which a commissioning couple's eggs or sperm,  
674 or both, are mixed in vitro and the resulting preembryo is  
675 implanted within another woman's body.

676       ~~(15)~~<sup>(7)</sup> "~~Gestational~~ Surrogacy contract" means a written  
677 agreement between the gestational surrogate or surrogate and the  
678 commissioning couple.

679       ~~(6)~~<sup>(8)</sup> "Gamete intrafallopian transfer" means the direct  
680 transfer of eggs and sperm into the fallopian tube prior to  
681 fertilization.

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

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

686       (11) "In vitro fertilization embryo transfer" means the  
687 transfer of an in vitro fertilized preembryo into a woman's  
688 uterus.

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

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

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

695       ~~(16)~~ "Surrogate" means a woman who contracts to become  
696 pregnant by means of assisted reproductive technology with the



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697 use of an egg from her body.

698 ~~(17)(15)~~ "Tubal embryo transfer" means the transfer of a  
699 dividing, in vitro fertilized preembryo into the fallopian tube.

700 Section 5. Subsections (1), (2), and (3) of section 742.15,  
701 Florida Statutes, are amended to read:

702 742.15 ~~Gestational~~ Surrogacy contract.—

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

709 (a) The gestational surrogate or surrogate is 18 years of  
710 age or older and is not a disqualified person; and

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

713 (c) Neither member of the commissioning couple is a  
714 disqualified person;

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

719 (e) The gestational surrogate or surrogate is domiciled in  
720 this state and is a United States citizen or lawful permanent  
721 resident of the United States; and

722 (f) The contract was drafted by an attorney who is a member  
723 in good standing of The Florida Bar.

724 (2) The commissioning couple may ~~shall~~ enter into a  
725 contract with a gestational surrogate only if ~~when~~, within

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reasonable medical certainty as determined and stated in a  
written statement under oath by a physician licensed under  
chapter 458 or chapter 459:

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

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

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

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

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

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

(c) The commissioning couple agrees not to reduce any  
amount paid to the gestational surrogate or surrogate if the  
child is stillborn or is born alive but impaired, or to provide  
for the payment of a supplement or bonus for any reason.

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

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

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

760        (g)~~(e)~~ The gestational surrogate agrees to assume parental  
761        rights and responsibilities for the child born to her if it is  
762        determined that neither member of the commissioning couple is  
763        the genetic parent of the child.

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

768        Section 6. Section 742.155, Florida Statutes, is created to  
769        read:

770        742.155 Preconception validation of surrogacy contract.—

771        (1) The commissioning couple and the prospective  
772        gestational surrogate or surrogate may petition a court to  
773        validate a surrogacy contract if:

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

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

780        (c) A copy of the surrogacy contract is attached to the  
781        petition.

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

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784       (a) The medical evidence provided for a contract with a  
785 gestational surrogate shows that:

786           1. The commissioning mother cannot physically gestate a  
787 pregnancy to term;

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

790           3. The gestation will cause a risk to the health of the  
791 fetus;

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

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

796       (d) The contract includes the provisions required by s.  
797 742.15 and does not include any prohibited provisions;

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

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

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

811       (4) The court may validate the surrogacy contract at the  
812 court's discretion. The court's determination of whether to

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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  
~~gestational~~ surrogacy.—

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

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

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

(a) The gestational surrogate or surrogate.

(6) The commissioning couple or their legal representative shall appear at the hearing on the petition. At the conclusion of the hearing, the court shall enter an order stating that the commissioning couple are the legal parents of the child if the court determines that:

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

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

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

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

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

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

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

(8)-(7) If ~~when~~ at least one member of the commissioning

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couple is the genetic parent of the child born to a gestational surrogate or surrogate, the commissioning couple shall be presumed to be the natural parents of the child.

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

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