

By Senator Grall

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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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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
76 agents; specifying requirements for certain contracts
77 entered into by surrogacy agencies and participants;
78 requiring the Department of Children and Families to
79 adopt certain rules by a specified date; requiring
80 surrogacy agencies to apply for and maintain
81 certification issued by the department; providing that
82 such certification is valid for a specified timeframe
83 unless suspended or revoked for cause; requiring the
84 department to conduct certain inspections; authorizing
85 the department to impose corrective action plans or
86 administrative fines upon surrogacy agencies or
87 suspend or revoke surrogacy agency certification under

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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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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;
126 prohibiting the granting of time-sharing and parental
127 responsibility to the commissioning couple under
128 certain circumstances; providing that the consent of
129 the commissioning couple is not required for the
130 adoption of the child under certain circumstances;
131 providing an effective date.
132

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

134
135 Section 1. Section 63.213, Florida Statutes, is amended to
136 read:

137 63.213 Preplanned adoption agreement.—

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

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

144 (b) Constitute consent of a biological mother to place her
145 biological child for adoption until 48 hours after the birth of

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146 the child and unless the court making the custody determination
147 or approving the adoption determines that the mother was aware
148 of her right to rescind within the 48-hour period after the
149 birth of the child but chose not to rescind her such consent.
150 ~~The volunteer mother's right to rescind her consent in a~~
151 ~~preplanned adoption applies only when the child is genetically~~
152 ~~related to her.~~

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

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

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

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

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

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

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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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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

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

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

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

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

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

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

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

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

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

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

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

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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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436 rights of all participants.

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

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

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

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

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

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

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

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

458 402.89 Surrogacy agencies.—

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

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

464 (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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494 of the following:

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

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

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

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

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

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

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

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

545 (e) Require that all surrogacy contracts pursuant to s.
546 742.15 between the commissioning couple and the gestational
547 surrogate or surrogate be in writing and require the
548 commissioning couple and gestational surrogate or surrogate to
549 undergo a legal consultation with an attorney who is a member in
550 good standing of The Florida Bar regarding the terms and
551 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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639 standards.640 (b) If a surrogacy agency fails to comply with this section
641 or the rules adopted under this section, the department may take
642 administrative action, including, but not limited to,
643 authorization of continued operation under a corrective action
644 plan, imposition of administrative fines, and suspension or
645 revocation of certification.646 (7) CERTIFIED SURROGACY AGENCIES LIST.—The department shall
647 maintain a publicly accessible list of certified surrogacy
648 agencies, including the certification status of such agencies.649 Section 4. Section 742.13, Florida Statutes, is reordered
650 and amended to read:

651 742.13 Definitions.—As used in ss. 742.11-742.17, the term:

652 (1) "Assisted reproductive technology" means those
653 procreative procedures which involve the laboratory handling of
654 human eggs, sperm, or preembryos, including, but not limited to,
655 in vitro fertilization embryo transfer, gamete intrafallopian
656 transfer, pronuclear stage transfer, tubal embryo transfer, and
657 zygote intrafallopian transfer.658 (2) "Commissioning couple" means the intended mother and
659 father of a child who will be conceived by means of assisted
660 reproductive technology ~~using the eggs or sperm of at least one~~
661 ~~of the intended parents.~~662 (3) "Disqualified person" means a person who fails to meet
663 the level 2 screening standards under s. 435.04.664 (4) "Egg" means the unfertilized female reproductive
665 cell.666 (5) "Fertilization" means the initial union of an egg
667 and sperm.

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668 (8)-(5) "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)-(6) "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)-(7) "Gestational Surrogacy contract" means a written
677 agreement between the gestational surrogate or surrogate and the
678 commissioning couple.

679 (6)-(8) "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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726 reasonable medical certainty as determined and stated in a
727 written statement under oath by a physician licensed under
728 chapter 458 or chapter 459:

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

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

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

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

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

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

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

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

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

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755 (f) 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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813 validate the surrogacy contract is subject to review only for
814 abuse of discretion.

815 Section 7. Present subsections (7), (8), and (9) of section
816 742.16, Florida Statutes, are redesignated as subsections (8),
817 (9), and (10), respectively, a new subsection (7) is added to
818 that section, and subsections (1) and (3), paragraph (a) of
819 subsection (4), subsection (6), and present subsections (7) and
820 (8) of that section are amended, to read:

821 742.16 Expedited affirmation of parental status for
822 gestational surrogacy.—

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

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

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842 (4) Notice of the hearing shall be given by the
843 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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871 couple is the genetic parent of the child born to a gestational
872 surrogate or surrogate, the commissioning couple shall be
873 presumed to be the natural parents of the child.

874 (9)-(8) Within 30 days after entry of the order affirming
875 the parental status of the commissioning couple, the clerk of
876 the court shall prepare a certified statement of the order for
877 the state registrar of vital statistics on a form provided by
878 the registrar. The court shall thereupon enter an order
879 requiring the Department of Health to issue a new birth
880 certificate naming the commissioning couple as parents and
881 requiring the department to seal the original birth certificate.

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