

[Second Reprint]

ASSEMBLY, No. 1704

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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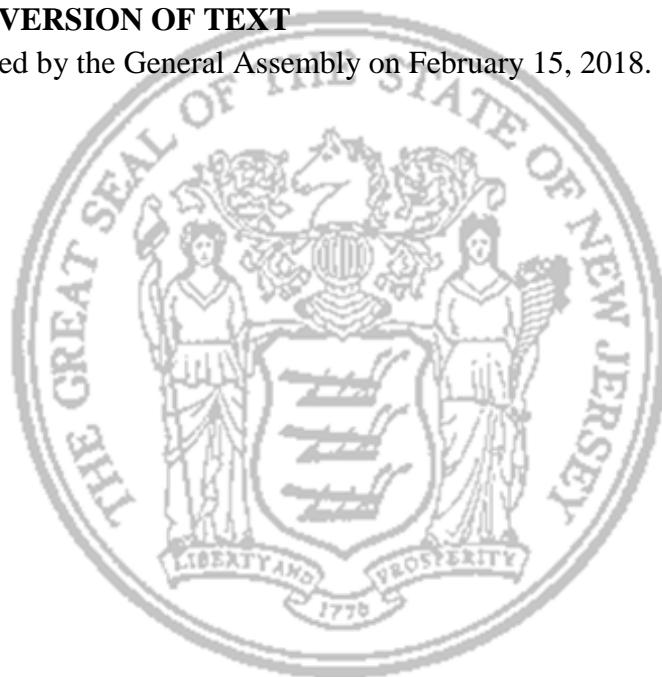
Assemblyman Eustace and Assemblywoman Murphy

SYNOPSIS

Authorizes certain gestational carrier agreements.

CURRENT VERSION OF TEXT

As amended by the General Assembly on February 15, 2018.



(Sponsorship Updated As Of: 2/16/2018)

1 AN ACT concerning gestational carrier agreements, revising various
2 parts of the statutory law and supplementing Title 9 of the Revised
3 Statutes ¹and amending P.L.1983, c.17 and R.S.26:8-28¹.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Title.

9 This act shall be known as the “New Jersey Gestational Carrier
10 Agreement Act.”

11
12 2. (New section) Purpose.

13 a. The Legislature finds and declares that gestational carrier
14 agreements executed pursuant to this act are in accord with the
15 public policy of this State.

16 b. It is the intent and purpose of the Legislature to:

17 (1) Establish consistent standards and procedural safeguards to
18 promote the best interests of the children who will be born as a
19 result of gestational carrier agreements executed pursuant to
20 P.L. , c. (C.)(pending before the Legislature as this bill);

21 (2) Protect all parties involved in gestational carrier agreements
22 executed pursuant to P.L. , c. (C.)(pending before the
23 Legislature as this bill); and

24 (3) Recognize the technological advances in assisted
25 reproductive medicine in ways that allow the use of these advances
26 by intended parents and gestational carriers according to the public
27 policy of New Jersey.

28
29 3. (New section) Definitions.

30 As used in this act:

31 “Advanced practice nurse” means a person certified in
32 accordance with the provisions of section 8 or 9 of P.L.1991, c.377
33 (C.45:11-47 or 45:11-48).

34 “Assisted reproductive technology” means procreative laboratory
35 procedures involving human eggs or pre-embryos, including, but
36 not limited to: in vitro fertilization; embryo transfer; gamete
37 transfer; pronuclear stage transfer; and zygote transfer.

38 “Attorney” means a person licensed to practice law in New
39 Jersey or another state or the District of Columbia.

40 “Certified nurse midwife” means a midwife licensed by the State
41 Board of Medical Examiners as a certified nurse midwife pursuant
42 to the provisions of P.L.1991, c.97 ¹[C.45:10-17 et seq.)] C.45:10-
43 17 et al.¹.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AWC committee amendments adopted February 12, 2018.

²Assembly floor amendments adopted February 15, 2018.

1 “Donor” means a person who contributes gametes for use in
2 assisted reproduction. The term does not include an intended parent
3 who contributes gametes to be used in assisted reproduction
4 pursuant to a valid gestational carrier agreement.

5 “Fertilization” means the initial union of the sperm and the egg.

6 “Gamete” means sperm or egg.

7 “Gestational carrier” means a woman 21 years of age or older
8 who agrees to become pregnant for an intended parent by assisted
9 reproductive technology without the use of her own egg.

10 “Gestational carrier agreement” means the written contract
11 between the gestational carrier and the intended parent, pursuant to
12 which the intended parent agrees to become the legal parent of a
13 child created through assisted reproductive technology and carried
14 by the gestational carrier.

15 “Implantation” means when the fertilized egg adheres to the
16 gestational carrier’s uterine wall.

17 “Intended parent” means a person who enters into a gestational
18 carrier agreement with a gestational carrier pursuant to section 6 of
19 P.L. , c. (C.) (pending before the Legislature as this bill),
20 pursuant to which the person shall be the legal parent of the
21 resulting child. The term shall include persons who are single,
22 married, partners in a civil union or domestic partnership, and
23 couples who are not married or in a civil union or domestic
24 partnership. Any reference to an intended parent shall include both
25 spouses or partners in a civil union or domestic partnership. This
26 term shall include the intended mother, the intended father, the
27 intended mother and intended father, the intended mother and
28 intended mother, or the intended father and intended father.

29 “In vitro fertilization” means all medical and laboratory
30 procedures that are required to effectuate the formation of a human
31 embryo outside the human body.

32 “Medical evaluation” means an evaluation and consultation by a
33 physician, ²a physician assistant,² a certified nurse midwife, or an
34 advanced practice nurse.

35 “Order of parentage” means a judgment determining parentage
36 pursuant to the provisions of a gestational carrier agreement that
37 satisfies P.L. , c. (C.) (pending before the Legislature as
38 this bill).

39 “Physician” means a person licensed to practice medicine in New
40 Jersey pursuant to R.S.45:9-1 et seq. or licensed to practice in any
41 one of the United States or its territories, or the District of
42 Columbia.

43 ²“Physician assistant” means a health professional who meets the
44 qualifications under P.L.1991, c.378 (C.45:9-27.10 et seq.) and
45 holds a current, valid license issued pursuant to section 4 of
46 P.L.1991, c.378 (C.45:9-27.13).²

47 “Pre-embryo” is a fertilized egg prior to 14 days of development.

1 “Pre-embryo transfer” means all medical and laboratory
2 procedures that are necessary to effectuate the transfer of a pre-
3 embryo into the uterine cavity.

4 “Psychological evaluation” means an evaluation and consultation
5 by a clinical social worker, psychotherapist, or psychiatrist licensed
6 by the State of New Jersey or licensed to practice in any one of the
7 United States or its territories, or the District of Columbia.

8 “Reasonable expenses” means medical, hospital, counseling or
9 other similar expenses incurred in connection with the gestational
10 carrier agreement, reasonable attorney fees and costs for legal
11 services in connection with the gestational carrier agreement, and
12 the reasonable living expenses of the gestational carrier during her
13 pregnancy including payments for reasonable food, clothing,
14 medical expenses, shelter, and religious, psychological, vocational,
15 or similar counseling services during the period of the pregnancy
16 and during the period of postpartum recovery. These payments may
17 be made directly to the gestational carrier or on the gestational
18 carrier’s behalf to the supplier of the goods or services pursuant to
19 the gestational carrier agreement.
20

21 4. (New section) Rights of Parentage.

22 a. Provided that the gestational carrier and the intended parent
23 satisfy the eligibility requirements set forth in section 5 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill) and the
25 gestational carrier agreement satisfies the requirements set forth in
26 section 6 of P.L. , c. (C.) (pending before the
27 Legislature as this bill), immediately upon the birth of the child:

28 (1) The intended parent shall be the legal parent of the child;

29 (2) In the case of an intended parent who is a spouse or partner
30 in a civil union or domestic partnership, both spouses or partners
31 shall be the parents of the child; and

32 (3) Neither the gestational carrier nor her spouse or partner, if
33 any, shall be the legal parent of the child.

34 b. In the event of a medical or laboratory error in which the
35 resulting child is not genetically related to an intended parent whose
36 gamete was intended to be used under the agreement, the intended
37 parent shall be the parent of the child where the gestational carrier
38 agreement satisfies the requirements set forth in section 6 of
39 P.L. , c. (C.) (pending before the Legislature as this
40 bill), unless otherwise determined by a court of competent
41 jurisdiction pursuant to a complaint challenging parentage filed by a
42 genetic parent within 120 days of birth.
43

44 5. (New section) Eligibility.

45 a. A gestational carrier shall be deemed to have satisfied the
46 requirements of P.L. , c. (C.) (pending before the
47 Legislature as this bill) if, at the time the gestational carrier
48 agreement is executed, she:

- 1 (1) Is at least 21 years of age;
- 2 (2) Has given birth to at least one child;
- 3 (3) Has completed a medical evaluation approving her
- 4 suitability to serve as a gestational carrier;
- 5 (4) Has completed a psychological evaluation approving her
- 6 suitability to serve as a gestational carrier;
- 7 (5) Has retained an attorney, independent of the intended parent,
- 8 but for whose services the intended parent may pay, who has
- 9 consulted with her about the terms of the gestational carrier
- 10 agreement and the potential legal consequences of being a
- 11 gestational carrier under the terms of this agreement.
- 12 b. The intended parent shall be deemed to have satisfied the
- 13 requirements of P.L. , c. (C.) (pending before the
- 14 Legislature as this bill) if, at the time the gestational carrier
- 15 agreement is executed, the intended parent:
- 16 (1) Has completed a psychological evaluation approving the
- 17 intended parent's suitability to participate in a gestational carrier
- 18 agreement; and
- 19 (2) Is represented by an attorney who consulted with the
- 20 intended parent about the terms of the gestational carrier agreement
- 21 and the potential legal consequences of the agreement.
- 22
- 23 6. (New section) Requirements for a Gestational Carrier
- 24 Agreement.
- 25 a. A gestational carrier agreement shall satisfy the following
- 26 requirements:
- 27 (1) It is in writing and executed by the gestational carrier, her
- 28 spouse or partner in a civil union or domestic partnership, if any,
- 29 and each intended parent. If the intended parent is married or in a
- 30 domestic partnership or civil union at the time the intended parent
- 31 enters the agreement, both spouses or partners shall meet the
- 32 requirements of subsection b. of section 5 of P.L. , c. (C.)
- 33 (pending before the Legislature as this bill) and shall be required to
- 34 enter into the agreement as intended parents. If the intended parent
- 35 is not married or in a civil union or domestic partnership, no other
- 36 person shall be deemed a legal parent of the child unless that person
- 37 meets the requirements of subsection b. of section 5 of P.L. , c.
- 38 (C.) (pending before the Legislature as this bill) and duly
- 39 executes the agreement;
- 40 (2) It is executed after the required medical and psychological
- 41 screenings of the gestational carrier and the psychological screening
- 42 of the intended parent, but prior to the commencement of any other
- 43 necessary medical procedures in furtherance of the implantation of
- 44 the pre-embryo; and
- 45 (3) The gestational carrier and her spouse or partner, if any, and
- 46 the intended parent shall have been represented by separate
- 47 attorneys in all matters relating to the gestational carrier agreement
- 48 and each attorney provides an affidavit of such representation.

- 1 b. A gestational carrier agreement shall provide:
- 2 (1) Express terms that the gestational carrier shall:
- 3 (a) Undergo pre-embryo transfer and attempt to carry and give
- 4 birth to the child;
- 5 (b) Surrender custody of the child to the intended parent
- 6 immediately upon the child's birth; and
- 7 (c) Have the right to medical care for the pregnancy, labor,
- 8 delivery, and postpartum recovery provided by a physician,
- 9 physician assistant,² advance practice nurse, or certified nurse
- 10 midwife of her choice, after she notifies, in writing, the intended
- 11 parent of her choice;
- 12 (2) An express term that, if the gestational carrier is married or
- 13 in a civil union or domestic partnership, the spouse or partner
- 14 agrees to the obligations imposed on the gestational carrier pursuant
- 15 to the terms of the gestational carrier agreement and to surrender
- 16 custody of the child to the intended parent immediately upon the
- 17 child's birth; and
- 18 (3) Express terms that the intended parent shall:
- 19 (a) Accept custody of the child immediately upon the child's
- 20 birth; and
- 21 (b) Assume sole responsibility for the support of the child
- 22 immediately upon the child's birth.
- 23 c. A gestational carrier agreement shall be presumed
- 24 enforceable if:
- 25 (1) It satisfies the contractual requirements set forth in
- 26 subsection a. of this section; and
- 27 (2) It contains at a minimum each of the terms set forth in
- 28 subsection b. of this section.
- 29 In addition, an enforceable gestational carrier agreement shall
- 30 include a provision setting forth the financial responsibilities of the
- 31 parties and shall include a provision that the intended parent shall
- 32 pay the gestational carrier's reasonable expenses, as defined herein,
- 33 unless expressly waived, in whole or in part, in writing by the
- 34 gestational carrier.
- 35 d. In the event that any of the requirements of this section are
- 36 not met, a court of competent jurisdiction shall determine parentage
- 37 based on the parties' intent.
- 38
- 39 7. (New section) Duty to Support.
- 40 a. The establishment of the parent and child relationship
- 41 pursuant to a valid gestational carrier agreement shall be the basis
- 42 upon which an action for child support may be brought against the
- 43 intended parent and acted upon by the court without further
- 44 evidentiary proceedings.
- 45 b. The breach of the gestational carrier agreement by the
- 46 intended parent shall not relieve the intended parent of the support
- 47 obligations imposed by the parent and child relationship created by

1 the provisions of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 c. Unless a person who donates gametes for use in assisted
4 reproduction enters into a written contract to the contrary, the
5 gamete donor is treated in law as if the gamete donor were not the
6 legal parent of a child thereby conceived and shall have no rights or
7 duties stemming from the conception of the child.

8

9 8. (New section) Establishment of Parent-Child Relationship.

10 a. After the gestational carrier becomes pregnant in accordance
11 with the gestational carrier agreement provided for in
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 the intended parent shall file a complaint for an order of parentage
14 with the Superior Court, Chancery Division, Family Part of the
15 county of the child's anticipated birth or the intended parent's or
16 gestational carrier's county of residence.

17 b. Attached to the complaint shall be:

18 (1) An affidavit by the gestational carrier and her spouse or
19 partner, if any, and the intended parent that they have entered into a
20 gestational carrier agreement in conformity with New Jersey law
21 and, after consultation with legal counsel, agreed to be bound by the
22 terms of the agreement;

23 (2) An affidavit of representation by the attorney for the
24 intended parent and the attorney for the gestational carrier and her
25 spouse or partner, if any; and

26 (3) A statement from the medical facility which performed the
27 assisted reproduction regarding the achievement of pregnancy in
28 accordance with the gestational carrier agreement.

29 c. The Superior Court shall, to the extent possible, schedule
30 and expedite a hearing on the matter, except that if the matter is
31 uncontested, the court may decide the matter without the need for
32 an appearance by the parties. Notice to all necessary parties shall
33 be made in accordance with the Rules of Court.

34 d. The attorney representing the intended parent shall appear at
35 the hearing unless the court waives an appearance.

36 e. Notwithstanding any other law concerning public hearings
37 and records, any action or proceeding held under P.L. , c. (C.)
38 (pending before the Legislature as this bill), shall be held in closed
39 court without admittance of any persons other than those necessary
40 to the action or proceeding.

41 f. If the court finds that the parties have complied with the
42 provisions of P.L. , c. (C.) (pending before the
43 Legislature as this bill), the court shall enter an order of parentage
44 naming the intended parent as the legal parent of the child.

45 g. After the birth of the child, the order of parentage and
46 application for the child's birth certificate shall be filed with the
47 State Registrar of Vital Statistics pursuant to the requirements of

1 R.S:26:8-28. The State Registrar shall issue the child's birth
2 certificate naming the intended parent as the parent of the child.

3 h. All records and filings in connection with a gestational
4 carrier agreement shall remain confidential and unavailable to the
5 public, except that such records and filings may be made available
6 to a child born as a result of a valid gestational carrier agreement
7 who has attained at least 18 years of age and who has submitted a
8 written, notarized request for the records or filings.

9
10 9. (New section) Certain Provisions of Law not Applicable to
11 Gestational Carrier Agreements.

12 a. A gestational carrier agreement shall not be considered:

13 (1) An adoption pursuant to Title 9 of the Revised Statutes; or

14 (2) A surrender of custody or termination of parental rights to
15 the child by the gestational carrier in violation of the requirements
16 of Title 9 of the Revised Statutes.

17 b. The payment of reasonable expenses in connection with a
18 valid gestational carrier agreement shall not constitute a violation of
19 section 18 of P.L.1993, c.345 (C.9:3-39.1).

20
21 10. Section 2 of P.L.1983, c.17 (C.9:17-39) is amended to read
22 as follows:

23 2. As used in this act, "parent and child relationship" means the
24 legal relationship existing between a child and the child's natural or
25 adoptive parents or between the child and the child's intended
26 parents pursuant to a gestational carrier agreement executed in
27 accordance with the provisions of P.L. , c. (C.) (pending
28 before the Legislature as this bill), incident to which the law confers
29 or imposes rights, privileges, duties, and obligations. It includes the
30 mother and child relationship and the father and child relationship.
31 (cf: P.L.1983, c.17, s.2)

32
33 11. Section 4 of P.L.1983, c.17 (C.9:17-41) is amended to read
34 as follows:

35 4. The parent and child relationship between a child and:

36 a. The natural mother, may be established by:

37 (1) proof of her having given birth to the child unless the child
38 is born in connection with a gestational carrier agreement executed
39 in accordance with the provisions of P.L. , c. (C.)
40 (pending before the Legislature as this bill), or

41 (2) under P.L.1983, c.17 (C.9:17-38 et seq.);

42 b. The natural father, may be established by proof that his
43 paternity has been adjudicated under prior law; under the laws
44 governing probate; by giving full faith and credit to a determination
45 of paternity made by any other state or jurisdiction, whether
46 established through voluntary acknowledgment or through judicial
47 or administrative processes; by a Certificate of Parentage as
48 provided in section 7 of P.L.1994, c.164 (C.26:8-28.1) that is

1 executed by the father, including an unemancipated minor, prior to
2 or after the birth of a child, and filed with the appropriate State
3 agency; by a default judgment or order of the court; or by an order
4 of the court based on a blood test or genetic test that ¹【satisfies】
5 meets¹ or exceeds the specific threshold probability as set by
6 subsection i. of section 11 of P.L.1983, c.17 (C.9:17-48) creating a
7 rebuttable presumption of paternity.

8 In accordance with 【section 331 of Pub.L.104-193】 42 U.S.C.
9 s.666(a)(5), a signed voluntary acknowledgment of paternity shall
10 be considered a legal finding of paternity subject to the right of the
11 signatory to rescind the acknowledgment within 60 days of the date
12 of signing, or by the date of establishment of a support order to
13 which the signatory is a party, whichever is earlier.

14 The adjudication of paternity shall only be voided upon a finding
15 that there exists clear and convincing evidence of: fraud, duress or a
16 material mistake of fact, with the burden of proof upon the
17 challenger;

18 c. (1) An adoptive parent, may be established by proof of
19 adoption;

20 (2) An intended parent, may be established by proof of an order
21 of parentage related to a gestational carrier agreement executed in
22 accordance with the provisions of P.L. , c. (C.) (pending
23 before the Legislature as this bill);

24 d. The natural mother or the natural father, may be terminated
25 by an order of a court of competent jurisdiction in granting a
26 judgment of adoption or as the result of an action to terminate
27 parental rights;

28 e. The establishment of the parent and child relationship
29 pursuant to subsections a., b., and c. of this section shall be the
30 basis upon which an action for child support may be brought by a
31 party and acted upon by the court without further evidentiary
32 proceedings;

33 f. In any case in which the parties execute a Certificate of
34 Parentage or a rebuttable presumption of paternity is created
35 through genetic testing, the presumption of paternity under section
36 6 of P.L.1983, c.17 (C.9:17-43) shall not apply;

37 g. Pursuant to the provisions of 【section 331 of Pub.L.104-
38 193】 42 U.S.C. s.666(a)(5), the child and other parties in a
39 contested paternity case shall submit to a genetic test upon the
40 request of one of the parties, unless that person has good cause for
41 refusal, if the request is supported by a sworn statement by the
42 requesting party:

43 (1) alleging paternity and setting forth the facts establishing a
44 reasonable possibility of the requisite sexual contact between the
45 parties; or

1 (2) denying paternity and setting forth the facts establishing a
2 reasonable possibility of the nonexistence of sexual contact between
3 the parties;

4 h. In a contested paternity case in which the State IV-D agency
5 requires or the court orders genetic testing, the State IV-D agency
6 shall:

7 (1) pay the costs of the genetic test and may recoup payment
8 from the alleged father whose paternity is established; and

9 (2) obtain additional testing if the initial test results are
10 contested, and upon the request and advance payment for the
11 additional test by the contestant.

12 (cf: P.L.1998, c.1, s.38)

13

14 12. Section 6 of P.L.1983, c.17 (C.9:17-43) is amended to read
15 as follows:

16 6. a. A man is presumed to be the biological father of a child
17 if:

18 (1) He and the child's biological mother are or have been
19 married to each other and the child is born during the marriage, or
20 within 300 days after the marriage is terminated by death,
21 annulment or divorce;

22 (2) Before the child's birth, he and the child's biological mother
23 have attempted to marry each other by a marriage solemnized in
24 apparent compliance with law, although the attempted marriage is
25 or could be declared invalid, and:

26 (a) if the attempted marriage could be declared invalid only by a
27 court, the child is born during the attempted marriage, or within 300
28 days after its termination by death, annulment or divorce; or

29 (b) if the attempted marriage is invalid without a court order, the
30 child is born within 300 days after the termination of cohabitation;

31 (3) After the child's birth, he and the child's biological mother
32 have married, or attempted to marry, each other by a marriage
33 solemnized in apparent compliance with law, although the
34 attempted marriage is or could be declared invalid, and:

35 (a) he has acknowledged his paternity of the child in writing
36 filed with the local registrar of vital statistics;

37 (b) he has sought to have his name placed on the child's birth
38 certificate as the child's father, pursuant to R.S.26:8-40; or

39 (c) he openly holds out the child as his natural child; or

40 (d) he is obligated to support the child under a written voluntary
41 agreement or court order;

42 (4) While the child is under the age of majority, he receives the
43 child into his home and openly holds out the child as his natural
44 child;

45 (5) While the child is under the age of majority, he provides
46 support for the child and openly holds out the child as his natural
47 child; or

1 (6) He acknowledges his paternity of the child in a writing filed
2 with the local registrar of vital statistics, which shall promptly
3 inform the mother of the filing of the acknowledgment, and she
4 does not dispute the acknowledgment within a reasonable time after
5 being informed thereof, in a writing filed with the local registrar. If
6 another man is presumed under this section to be the child's father,
7 acknowledgment may be effected only with the written consent of
8 the presumed father. Each attempted acknowledgment, whether or
9 not effective, shall be kept on file by the local registrar of vital
10 statistics and shall entitle the person who filed it to notice of all
11 proceedings concerning parentage and adoption of the child, as
12 provided in section 10 of P.L.1983, c.17 (C.9:17-47) and pursuant
13 to section 9 of P.L.1977, c.367 (C.9:3-45).

14 b. A presumption under this section may be rebutted in an
15 appropriate action only by clear and convincing evidence. If two or
16 more presumptions arise which conflict with each other, the
17 presumption which on the facts is founded on the weightier
18 considerations of policy and logic controls. The presumption is
19 rebutted by a court order terminating the presumed father's paternal
20 rights or by establishing that another man is the child's biological or
21 adoptive father.

22 c. Notwithstanding the provisions of this section to the
23 contrary, in an action brought under this act against the legal
24 representative or the estate of a deceased alleged father, the criteria
25 in paragraphs (4) and (5) of subsection a. of this section shall not
26 constitute presumptions but shall be considered by the court
27 together with all of the evidence submitted. The decision of the
28 court shall be based on a preponderance of the evidence.

29 d. In the absence of a presumption, the court shall decide
30 whether the parent and child relationship exists, based upon a
31 preponderance of the evidence.

32 e. There is a rebuttable presumption that a man has knowledge
33 of his paternity and the birth of a child if he had sexual intercourse
34 with the biological mother within 300 days of the child's birth. This
35 presumption may be rebutted only by clear and convincing evidence
36 in an appropriate action based on fraud, duress, or
37 misrepresentation by the biological mother concerning the paternity
38 or birth of the child. This claim of fraud, duress, or
39 misrepresentation must be asserted prior to the finalization of the
40 adoption.

41 f. This section shall not apply to a child born in connection
42 with a gestational carrier agreement executed in accordance with
43 the provisions of P.L. , c. (C.) (pending before the
44 Legislature as this bill).
45 (cf: P.L.1998, c.20, s.4)

46
47 13. Section 7 of P.L.1983, c.17 (C.9:17-44) is amended to read
48 as follows:

1 7. a. If, under the supervision of a licensed physician ²or a
 2 physician assistant² and with the consent of her husband or partner
 3 in a civil union, a **【wife】** woman is inseminated artificially with
 4 semen donated by a man not her husband or partner, the husband or
 5 partner is treated in law as if **【he】** ¹**【were the natural father】** the
 6 husband or partner were the natural parent¹ of a child thereby
 7 conceived. The **【husband's】** consent of the husband or partner shall
 8 be in writing and signed by **【him and his wife】** both parties to the
 9 marriage or civil union. The physician ²or physician assistant² shall
 10 certify their signatures and the date of the insemination, upon forms
 11 provided by the Department of Health, and file the **【husband's】**
 12 consent with the ²**【State】**² Department of Health, where it shall be
 13 kept confidential and in a sealed file. However, the physician's ²or
 14 the physician assistant's² failure to do so shall not affect the
 15 **【father】** parent and child relationship of the husband or partner. All
 16 papers and records pertaining to the insemination, whether part of
 17 the permanent record of a court or of a file held by the supervising
 18 physician ²or physician's assistant² or elsewhere, are subject to
 19 inspection only upon an order of the court for compelling reasons
 20 clearly and convincingly shown.

21 b. Unless the donor of semen and the woman have entered into
 22 a written contract to the contrary, the donor of semen provided to a
 23 licensed physician ²or physician assistant² for use in artificial
 24 insemination of a woman other than the donor's wife or partner in a
 25 civil union is treated in law as if he were not the father of a child
 26 thereby conceived and shall have no rights or duties stemming from
 27 the conception of a child.

28 c. This section shall not apply in a proceeding to determine
 29 parentage of a child born in connection with a gestational carrier
 30 agreement executed in accordance with the provisions of P.L. , c.
 31 (C.) (pending before the Legislature as this bill).
 32 (cf: P.L.1983, c.17, s.7)

33
 34 14. Section 15 of P.L.1983, c.17 (C.9:17-52) is amended to read
 35 as follows:

36 15. Evidence relating to paternity may include:

37 a. Evidence of sexual intercourse between the mother and
 38 alleged father at any possible time of conception;

39 b. An expert's opinion concerning the statistical probability of
 40 the alleged father's paternity, based upon the duration of the
 41 mother's pregnancy;

42 c. Genetic or blood tests, weighted in accordance with
 43 evidence, if available, of the statistical probability of the alleged
 44 father's paternity;

45 d. Medical or anthropological evidence relating to the alleged
 46 father's paternity of the child, based on tests performed by experts.

1 If a man has been identified as a possible father of the child, the
2 court may, and upon request of a party shall, require the child, the
3 mother, and the man to submit to appropriate tests; **[and]**

4 e. All other evidence on behalf of any party, relevant to the
5 issue of paternity of the child; and

6 f. A gestational carrier agreement executed in accordance with
7 the provisions of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

9 (cf: P.L.1983, c.17, s.15)

10

11 15. R.S.26:8-28 is amended to read as follows:

12 26:8-28. a. (1) **1****[Within]** Except as provided by subsection e.
13 of this section, within¹ five days after each birth, there shall be filed
14 with the local registrar of the district in which the birth occurred a
15 certificate of the birth filled out with durable black or blue ink in a
16 legible manner.

17 (2) The name of the father shall be included on the record of
18 birth of the child of unmarried parents only if the father and mother
19 have signed a voluntary acknowledgment of paternity; or a court or
20 an administrative agency of competent jurisdiction has issued an
21 adjudication of paternity.

22 (3) In the case of a child born in connection with a gestational
23 carrier agreement executed in accordance with the provisions of
24 P.L. , c. (C.) (pending before the Legislature as this bill),
25 the name of the intended parent shall be included on the record of
26 birth as the child's parent.

27 (4) Nothing in this section shall preclude the State IV-D agency
28 from obtaining an admission of paternity from the father for
29 submission in a judicial or administrative proceeding, or prohibit
30 the issuance of an order in a judicial or administrative proceeding
31 which bases a legal finding of paternity on an admission of
32 paternity by the father and any other additional showing required by
33 State law.

34 b. As part of the birth record, all information required by the
35 State IV-D agency pursuant to section 7 of P.L.1994, c.164 (C.26:8-
36 28.1) shall be recorded on a separate form provided or approved by
37 the State registrar pursuant to subsection c. of R.S.26:8-24, and
38 filed with the State IV-D agency pursuant to R.S.26:8-30 and
39 R.S.26:8-31 for the establishment and enforcement of child support
40 matters in the State. For the purposes of this subsection, "State IV-
41 D agency" means the agency in the Department of Human Services
42 designated to administer the Title IV-D Child Support Program.

43 c. The State registrar shall require each parent to provide his
44 Social Security number in accordance with procedures established
45 by the State registrar. The Social Security numbers furnished
46 pursuant to this section shall be used exclusively for child support
47 enforcement purposes.

1 d. The certificate of birth shall include the blood type of the
2 child.

3 ¹e. Notwithstanding the provisions of subsection a. of this
4 section to the contrary, the filing of a child's birth certificate may be
5 delayed, based on the parent's religious beliefs, until such time as
6 the child is named; however, no such delay shall result in the filing
7 of the birth certificate more than 15 days after the child's date of
8 birth. Any parent whose religious beliefs necessitate a delay in the
9 filing of a birth certificate pursuant to this subsection, shall: (1)
10 provide notice of the religious need for a filing delay, within five
11 days after the child's date of birth, to the person who is responsible
12 for filing the birth certificate, as provided by R.S.26:8-30 or
13 R.S.26:8-31, except that, if the parent is responsible for such filing,
14 no such notice shall be required; and (2) file the child's birth
15 certificate, or authorize such filing by the person responsible
16 therefor, as soon as possible after the child is named, but in no case
17 more than 15 days after the child's birth. If a child is not named
18 within the 15-day extended timeframe provided by this subsection,
19 the child's birth certificate shall be filed, and the naming procedure
20 outlined in R.S.26:8-34 shall be applied.

21 (cf: P.L.2017, c.4, s.1)¹

22
23 16. This act shall take effect immediately and shall apply only to
24 gestational carrier agreements entered into on or after the effective
25 date.