

P.L. 2018, CHAPTER 18, *approved May 30, 2018*  
Senate, No. 482 (*Second Reprint*)

1    **AN ACT** concerning gestational carrier agreements, supplementing  
2       Title 9 of the Revised Statutes and amending P.L.1983, c.17 and  
3       R.S.26:8-28.

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.

**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:**

<sup>1</sup>Senate floor amendments adopted February 26, 2018.

<sup>2</sup>Senate SBA committee amendments adopted March 13, 2018.

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

3       “Certified nurse midwife” means a midwife licensed by the State  
4       Board of Medical Examiners as a certified nurse midwife pursuant  
5       to the provisions of P.L.1991, c.97 (C.45:10-17 et al.).

6       “Donor” means a person who contributes gametes for use in  
7       assisted reproduction. The term does not include an intended parent  
8       who contributes gametes to be used in assisted reproduction  
9       pursuant to a valid gestational carrier agreement.

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

11      “Gamete” means sperm or egg.

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

15      “Gestational carrier agreement” means the written contract  
16      between the gestational carrier and the intended parent, pursuant to  
17      which the intended parent agrees to become the legal parent of a  
18      child created through assisted reproductive technology and carried  
19      by the gestational carrier.

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

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

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

37      “Medical evaluation” means an evaluation and consultation by a  
38      physician, <sup>1</sup>a physician assistant,<sup>1</sup> a certified nurse midwife, or an  
39      advanced practice nurse.

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

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

1 <sup>1</sup>“Physician assistant” means a health professional who meets the  
2 qualifications under P.L.1991, c.378 (C.45:9-27.10 et seq.) and  
3 holds a current, valid license issued pursuant to section 4 of  
4 P.L.1991, c.378 (C.45:9-27.13).<sup>1</sup>

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

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

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

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

25  
26 4. (New section) Rights of Parentage.

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

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

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

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

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

1       5. (New section) Eligibility.

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

6       (1) Is at least 21 years of age;

7       (2) Has given birth to at least one child;

8       (3) Has completed a medical evaluation approving her  
9 suitability to serve as a gestational carrier;

10       (4) Has completed a psychological evaluation approving her  
11 suitability to serve as a gestational carrier;

12       (5) Has retained an attorney, independent of the intended parent,  
13 but for whose services the intended parent may pay, who has  
14 consulted with her about the terms of the gestational carrier  
15 agreement and the potential legal consequences of being a  
16 gestational carrier under the terms of this agreement.

17       b. The intended parent shall be deemed to have satisfied the  
18 requirements of P.L. , c. (C. )(pending before the  
19 Legislature as this bill) if, at the time the gestational carrier  
20 agreement is executed, the intended parent:

21       (1) Has completed a psychological evaluation approving the  
22 intended parent's suitability to participate in a gestational carrier  
23 agreement; and

24       (2) Is represented by an attorney who consulted with the  
25 intended parent about the terms of the gestational carrier agreement  
26 and the potential legal consequences of the agreement.

27

28       6. (New section) Requirements for a Gestational Carrier  
29 Agreement.

30       a. A gestational carrier agreement shall satisfy the following  
31 requirements:

32       (1) It is in writing and executed by the gestational carrier, her  
33 spouse or partner in a civil union or domestic partnership, if any,  
34 and each intended parent. If the intended parent is married or in a  
35 domestic partnership or civil union at the time the intended parent  
36 enters the agreement, both spouses or partners shall meet the  
37 requirements of subsection b. of section 5 of P.L. , c. (C. )  
38 (pending before the Legislature as this bill) and shall be required to  
39 enter into the agreement as intended parents. If the intended parent  
40 is not married or in a civil union or domestic partnership, no other  
41 person shall be deemed a legal parent of the child unless that person  
42 meets the requirements of subsection b. of section 5 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill)  
44 and duly executes the agreement;

45       (2) It is executed after the required medical and psychological  
46 screenings of the gestational carrier and the psychological screening  
47 of the intended parent, but prior to the commencement of any other

1 necessary medical procedures in furtherance of the implantation of  
2 the pre-embryo; and

3 (3) The gestational carrier and her spouse or partner, if any, and  
4 the intended parent shall have been represented by separate  
5 attorneys in all matters relating to the gestational carrier agreement  
6 and each attorney provides an affidavit of such representation.

7 b. A gestational carrier agreement shall provide:

8 (1) Express terms that the gestational carrier shall:

9 (a) Undergo pre-embryo transfer and attempt to carry and give  
10 birth to the child;

11 (b) Surrender custody of the child to the intended parent  
12 immediately upon the child's birth; and

13 (c) Have the right to medical care for the pregnancy, labor,  
14 delivery, and postpartum recovery provided by a physician,  
15 'physician assistant,' advance practice nurse, or certified nurse  
16 midwife of her choice, after she notifies, in writing, the intended  
17 parent of her choice;

18 (2) An express term that, if the gestational carrier is married or  
19 in a civil union or domestic partnership, the spouse or partner  
20 agrees to the obligations imposed on the gestational carrier pursuant  
21 to the terms of the gestational carrier agreement and to surrender  
22 custody of the child to the intended parent immediately upon the  
23 child's birth; and

24 (3) Express terms that the intended parent shall:

25 (a) Accept custody of the child immediately upon the child's  
26 birth; and

27 (b) Assume sole responsibility for the support of the child  
28 immediately upon the child's birth.

29 c. A gestational carrier agreement shall be presumed  
30 enforceable if:

31 (1) It satisfies the contractual requirements set forth in  
32 subsection a. of this section; and

33 (2) It contains at a minimum each of the terms set forth in  
34 subsection b. of this section.

35 In addition, an enforceable gestational carrier agreement shall  
36 include a provision setting forth the financial responsibilities of the  
37 parties and shall include a provision that the intended parent shall  
38 pay the gestational carrier's reasonable expenses, as defined herein,  
39 unless expressly waived, in whole or in part, in writing by the  
40 gestational carrier.

41 d. In the event that any of the requirements of this section are  
42 not met, a court of competent jurisdiction shall determine parentage  
43 based on the parties' intent.

44

45 7. (New section) Duty to Support.

46 a. The establishment of the parent and child relationship  
47 pursuant to a valid gestational carrier agreement shall be the basis  
48 upon which an action for child support may be brought against the

1 intended parent and acted upon by the court without further  
2 evidentiary proceedings.

3 b. The breach of the gestational carrier agreement by the  
4 intended parent shall not relieve the intended parent of the support  
5 obligations imposed by the parent and child relationship created by  
6 the provisions of P.L. , c. (C. )(pending before the  
7 Legislature as this bill).

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

13

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

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

22 b. Attached to the complaint shall be:

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

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

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

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

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

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

46 f. If the court finds that the parties have complied with the  
47 provisions of P.L. , c. (C. )(pending before the

1 Legislature as this bill), the court shall enter an order of parentage  
2 naming the intended parent as the legal parent of the child.

3 g. After the birth of the child, the order of parentage and  
4 application for the child's birth certificate shall be filed with the  
5 State Registrar of Vital Statistics pursuant to the requirements of  
6 R.S:26:8-28. The State Registrar shall issue the child's birth  
7 certificate naming the intended parent as the parent of the child.

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

14

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

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

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

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

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

25

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

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

37

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

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

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

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

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

47 b. The natural father, may be established by proof that his  
48 paternity has been adjudicated under prior law; under the laws

1 governing probate; by giving full faith and credit to a determination  
2 of paternity made by any other state or jurisdiction, whether  
3 established through voluntary acknowledgment or through judicial  
4 or administrative processes; by a Certificate of Parentage as  
5 provided in section 7 of P.L.1994, c.164 (C.26:8-28.1) that is  
6 executed by the father, including an unemancipated minor, prior to  
7 or after the birth of a child, and filed with the appropriate State  
8 agency; by a default judgment or order of the court; or by an order  
9 of the court based on a blood test or genetic test that meets or  
10 exceeds the specific threshold probability as set by subsection i. of  
11 section 11 of P.L.1983, c.17 (C.9:17-48) creating a rebuttable  
12 presumption of paternity.

13 In accordance with [section 331 of Pub.L.104-193] 42 U.S.C.  
14 s.666(a)(5), a signed voluntary acknowledgment of paternity shall  
15 be considered a legal finding of paternity subject to the right of the  
16 signatory to rescind the acknowledgment within 60 days of the date  
17 of signing, or by the date of establishment of a support order to  
18 which the signatory is a party, whichever is earlier.

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

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

25 (2) An intended parent, may be established by proof of an order  
26 of parentage related 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);

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

33 e. The establishment of the parent and child relationship  
34 pursuant to subsections a., b., and c. of this section shall be the  
35 basis upon which an action for child support may be brought by a  
36 party and acted upon by the court without further evidentiary  
37 proceedings;

38 f. In any case in which the parties execute a Certificate of  
39 Parentage or a rebuttable presumption of paternity is created  
40 through genetic testing, the presumption of paternity under section  
41 6 of P.L.1983, c.17 (C.9:17-43) shall not apply;

42 g. Pursuant to the provisions of [section 331 of Pub.L.104-  
43 193] 42 U.S.C. s.666(a)(5), the child and other parties in a  
44 contested paternity case shall submit to a genetic test upon the  
45 request of one of the parties, unless that person has good cause for  
46 refusal, if the request is supported by a sworn statement by the  
47 requesting party:



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

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

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

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

12 (2) obtain additional testing if the initial test results are  
13 contested, and upon the request and advance payment for the  
14 additional test by the contestant.

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

16  
17 12. Section 6 of P.L.1983, c.17 (C.9:17-43) is amended to read  
18 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 d. In the absence of a presumption, the court shall decide  
33 whether the parent and child relationship exists, based upon a  
34 preponderance of the evidence.

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

44 f. This section shall not apply to a child born in connection  
45 with a gestational carrier agreement executed in accordance with  
46 the provisions of P.L. , c. (C. )(pending before the  
47 Legislature as this bill).

48 (cf: P.L.1998, c.20, s.4)

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

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

26 b. Unless the donor of semen and the woman have entered into  
27 a written contract to the contrary, the donor of semen provided to a  
28 licensed physician <sup>2</sup>['or],<sup>2</sup> physician assistant<sup>1 2</sup>, or advance  
29 practice nurse<sup>2</sup> for use in artificial insemination of a woman other  
30 than the <sup>2</sup>['donor's wife] spouse<sup>2</sup> or partner in a civil union is  
31 treated in law as if <sup>2</sup>['he] the donor of semen<sup>2</sup> were not the  
32 <sup>2</sup>['father] legal parent<sup>2</sup> of a child thereby conceived and shall have  
33 no rights or duties stemming from the conception of a child.

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

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

42 15. Evidence relating to paternity may include:

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

- 1       b. An expert's opinion concerning the statistical probability of  
2 the alleged father's paternity, based upon the duration of the  
3 mother's pregnancy;
- 4       c. Genetic or blood tests, weighted in accordance with  
5 evidence, if available, of the statistical probability of the alleged  
6 father's paternity;
- 7       d. Medical or anthropological evidence relating to the alleged  
8 father's paternity of the child, based on tests performed by experts.  
9 If a man has been identified as a possible father of the child, the  
10 court may, and upon request of a party shall, require the child, the  
11 mother, and the man to submit to appropriate tests; **[and]**
- 12       e. All other evidence on behalf of any party, relevant to the  
13 issue of paternity of the child; and
- 14       f. A gestational carrier agreement executed in accordance with  
15 the provisions of P.L. , c. (C. )(pending before the  
16 Legislature as this bill).  
17 (cf: P.L.1983, c.17, s.15)  
18
- 19       15. R.S.26:8-28 is amended to read as follows:
- 20       26:8-28. a. (1) Except as provided by subsection e. of this  
21 section, within five days after each birth, there shall be filed with  
22 the local registrar of the district in which the birth occurred a  
23 certificate of the birth filled out with durable black or blue ink in a  
24 legible manner.
- 25       (2) The name of the father shall be included on the record of  
26 birth of the child of unmarried parents only if the father and mother  
27 have signed a voluntary acknowledgment of paternity; or a court or  
28 an administrative agency of competent jurisdiction has issued an  
29 adjudication of paternity.
- 30       (3) In the case of a child born in connection with a gestational  
31 carrier agreement executed in accordance with the provisions of  
32 P.L. , c. (C. ) (pending before the Legislature as this bill),  
33 the name of the intended parent shall be included on the record of  
34 birth as the child's parent.
- 35       (4) Nothing in this section shall preclude the State IV-D agency  
36 from obtaining an admission of paternity from the father for  
37 submission in a judicial or administrative proceeding, or prohibit  
38 the issuance of an order in a judicial or administrative proceeding  
39 which bases a legal finding of paternity on an admission of  
40 paternity by the father and any other additional showing required by  
41 State law.
- 42       b. As part of the birth record, all information required by the  
43 State IV-D agency pursuant to section 7 of P.L.1994, c.164 (C.26:8-  
44 28.1) shall be recorded on a separate form provided or approved by  
45 the State registrar pursuant to subsection c. of R.S.26:8-24, and  
46 filed with the State IV-D agency pursuant to R.S.26:8-30 and  
47 R.S.26:8-31 for the establishment and enforcement of child support  
48 matters in the State. For the purposes of this subsection, "State IV-

1 D agency" means the agency in the Department of Human Services  
2 designated to administer the Title IV-D Child Support Program.

3 c. The State registrar shall require each parent to provide his  
4 Social Security number in accordance with procedures established  
5 by the State registrar. The Social Security numbers furnished  
6 pursuant to this section shall be used exclusively for child support  
7 enforcement purposes.

8 d. The certificate of birth shall include the blood type of the  
9 child.

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

28 (cf: P.L.2017, c.4, s.1)

29  
30 16. This act shall take effect immediately and shall apply only  
31 to gestational carrier agreements entered into on or after the  
32 effective date.

33  
34  
35 \_\_\_\_\_  
36  
37 Authorizes certain gestational carrier agreements.