

[First Reprint]

**SENATE, No. 482**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Senator Ruiz**

**SYNOPSIS**

Authorizes certain gestational carrier agreements.

**CURRENT VERSION OF TEXT**

As amended by the Senate on February 26, 2018.



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.

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 (C.45:10-17 et al.).

43 “Donor” means a person who contributes gametes for use in  
44 assisted reproduction. The term does not include an intended parent

**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.

1 who contributes gametes to be used in assisted reproduction  
2 pursuant to a valid gestational carrier agreement.

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

4 “Gamete” means sperm or egg.

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

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

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

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

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

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

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

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

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

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

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

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

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

17  
18 4. (New section) Rights of Parentage.

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

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

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

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

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

40  
41 5. (New section) Eligibility.

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

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

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

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

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

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

6

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

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

15       b. Attached to the complaint shall be:

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

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

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

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

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

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

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

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

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

7  
8 9. (New section) Certain Provisions of Law not Applicable to  
9 Gestational Carrier Agreements.

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

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

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

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

18  
19 10. Section 2 of P.L.1983, c.17 (C.9:17-39) is amended to read  
20 as follows:

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

30  
31 11. Section 4 of P.L.1983, c.17 (C.9:17-41) is amended to read  
32 as follows:

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

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

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

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

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



1 agency; by a default judgment or order of the court; or by an order  
2 of the court based on a blood test or genetic test that meets or  
3 exceeds the specific threshold probability as set by subsection i. of  
4 section 11 of P.L.1983, c.17 (C.9:17-48) creating a rebuttable  
5 presumption of paternity.

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

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

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

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

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

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

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

35 g. Pursuant to the provisions of **【section 331 of Pub.L.104-**  
36 **193】 42 U.S.C. s.666(a)(5)**, the child and other parties in a  
37 contested paternity case shall submit to a genetic test upon the  
38 request of one of the parties, unless that person has good cause for  
39 refusal, if the request is supported by a sworn statement by the  
40 requesting party:

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

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

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

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

6       (2) obtain additional testing if the initial test results are  
7 contested, and upon the request and advance payment for the  
8 additional test by the contestant.

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

10  
11       12. Section 6 of P.L.1983, c.17 (C.9:17-43) is amended to read  
12 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

45       (6) He acknowledges his paternity of the child in a writing filed  
46 with the local registrar of vital statistics, which shall promptly  
47 inform the mother of the filing of the acknowledgment, and she  
48 does not dispute the acknowledgment within a reasonable time after

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

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

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

25 d. In the absence of a presumption, the court shall decide  
26 whether the parent and child relationship exists, based upon a  
27 preponderance of the evidence.

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

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

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

42  
43 13. Section 7 of P.L.1983, c.17 (C.9:17-44) is amended to read  
44 as follows:

45 7. a. If, under the supervision of a licensed physician <sup>1</sup>or a  
46 physician assistant<sup>1</sup> and with the consent of her husband or partner  
47 in a civil union, a **【wife】** woman is inseminated artificially with  
48 semen donated by a man not her husband or partner, the husband or

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

17 b. Unless the donor of semen and the woman have entered into  
 18 a written contract to the contrary, the donor of semen provided to a  
 19 licensed physician <sup>1</sup>or physician assistant<sup>1</sup> for use in artificial  
 20 insemination of a woman other than the donor's wife or partner in a  
 21 civil union is treated in law as if he were not the father of a child  
 22 thereby conceived and shall have no rights or duties stemming from  
 23 the conception of a child.

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

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

32 15. Evidence relating to paternity may include:

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

35 b. An expert's opinion concerning the statistical probability of  
 36 the alleged father's paternity, based upon the duration of the  
 37 mother's pregnancy;

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

41 d. Medical or anthropological evidence relating to the alleged  
 42 father's paternity of the child, based on tests performed by experts.  
 43 If a man has been identified as a possible father of the child, the  
 44 court may, and upon request of a party shall, require the child, the  
 45 mother, and the man to submit to appropriate tests; **【and】**

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

1     f. A gestational carrier agreement executed in accordance with  
2     the provisions of P.L. , c. (C. )(pending before the  
3     Legislature as this bill).  
4     (cf: P.L.1983, c.17, s.15)

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

7     26:8-28. a. (1) Except as provided by subsection e. of this  
8     section, within five days after each birth, there shall be filed with  
9     the local registrar of the district in which the birth occurred a  
10    certificate of the birth filled out with durable black or blue ink in a  
11    legible manner.

12    (2) The name of the father shall be included on the record of  
13    birth of the child of unmarried parents only if the father and mother  
14    have signed a voluntary acknowledgment of paternity; or a court or  
15    an administrative agency of competent jurisdiction has issued an  
16    adjudication of paternity.

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

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

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

38    c. The State registrar shall require each parent to provide his  
39    Social Security number in accordance with procedures established  
40    by the State registrar. The Social Security numbers furnished  
41    pursuant to this section shall be used exclusively for child support  
42    enforcement purposes.

43    d. The certificate of birth shall include the blood type of the  
44    child.

45    e. Notwithstanding the provisions of subsection a. of this  
46    section to the contrary, the filing of a child's birth certificate may be  
47    delayed, based on the parent's religious beliefs, until such time as  
48    the child is named; however, no such delay shall result in the filing

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

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

16

17 16. This act shall take effect immediately and shall apply only  
18 to gestational carrier agreements entered into on or after the  
19 effective date.