

[First Reprint]

**SENATE, No. 1599**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2012

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

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**District 37 (Bergen)**

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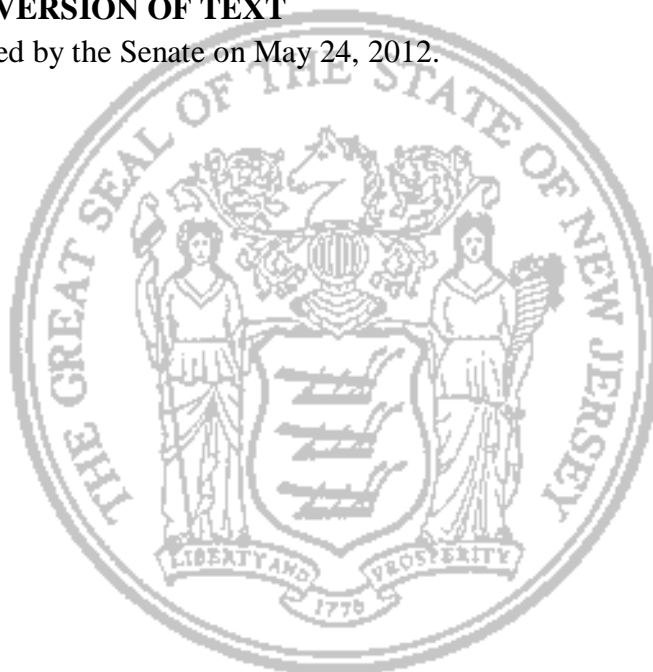
**Senators Allen and Stack**

**SYNOPSIS**

Authorizes certain gestational carrier agreements.

**CURRENT VERSION OF TEXT**

As amended by the Senate on May 24, 2012.



**(Sponsorship Updated As Of: 6/1/2012)**

1 AN ACT concerning gestational carrier agreements, revising various  
2 parts of the statutory law and supplementing Title 9 of the  
3 Revised Statutes.

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 seq.).

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 May 24, 2012.

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, a certified nurse midwife, or an advanced practice nurse.

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

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

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

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

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

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

13

14       4. (New section) Rights of Parentage.

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

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

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

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

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

36

37       5. (New section) Eligibility.

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

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

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

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

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

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

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

10 (1) Has completed a psychological evaluation approving the  
11 intended parent's suitability to <sup>1</sup> ~~parent as a result of~~ participate  
12 in<sup>1</sup> a gestational carrier agreement; and

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

16  
17 6. (New section) Requirements for a Gestational Carrier  
18 Agreement.

19 a. A gestational carrier agreement shall satisfy the following  
20 requirements:

21 (1) It is in writing and executed by the gestational carrier, her  
22 spouse or partner in a civil union or domestic partnership, if any,  
23 and each intended parent. If the intended parent is married or in a  
24 domestic partnership or civil union at the time the intended parent  
25 enters the agreement, both spouses or partners shall meet the  
26 requirements of subsection b. of section 5 of  
27 P.L. , c. (C. )(pending before the Legislature as this bill) and  
28 shall be required to enter into the agreement as intended parents. If  
29 the intended parent is not married or in a civil union or domestic  
30 partnership, no other person shall be deemed a legal parent of the  
31 child unless that person meets the requirements of subsection b. of  
32 section 5 of P.L. , c. (C. )(pending before the Legislature  
33 as this bill) and duly executes the agreement;

34 (2) It is executed after the required medical and psychological  
35 screenings of the gestational carrier and the psychological screening  
36 of the intended parent, but prior to the commencement of any other  
37 necessary medical procedures in furtherance of the implantation of  
38 the pre-embryo; and

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

43 b. A gestational carrier agreement shall provide:

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

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

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

1 (c) Have the right to medical care for the pregnancy, labor,  
2 delivery, and postpartum recovery provided by a physician, advance  
3 practice nurse, or certified nurse midwife of her choice, after she  
4 notifies, in writing, the intended parent of her choice;

5 (2) An express term that, if the gestational carrier is married or  
6 in a civil union or domestic partnership, the spouse or partner  
7 agrees to the obligations imposed on the gestational carrier pursuant  
8 to the terms of the gestational carrier agreement and to surrender  
9 custody of the child to the intended parent immediately upon the  
10 child's birth; and

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

12 (a) Accept custody of the child immediately upon the child's  
13 birth; and

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

16 c. A gestational carrier agreement shall be presumed  
17 enforceable if:

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

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

22 In addition, an enforceable gestational carrier agreement <sup>1</sup>【may  
23 include a provision that the intended parent shall pay the gestational  
24 carrier's reasonable expenses in connection with the agreement】  
25 shall include a provision setting forth the financial responsibilities  
26 of the parties and shall include a provision that the intended parent  
27 shall pay the gestational carrier's reasonable expenses, as defined  
28 herein, unless expressly waived, in whole or in part, in writing by  
29 the gestational carrier<sup>1</sup>.

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

33

34 7. (New section) Duty to Support.

35 a. The establishment of the parent and child relationship  
36 pursuant to a valid gestational carrier agreement shall be the basis  
37 upon which an action for child support may be brought against the  
38 intended parent and acted upon by the court without further  
39 evidentiary proceedings.

40 b. The breach of the gestational carrier agreement by the  
41 intended parent shall not relieve the intended parent of the support  
42 obligations imposed by the parent and child relationship created by  
43 the provisions of P.L. , c. (C. )(pending before the  
44 Legislature as this bill).

45 c. Unless a person who donates gametes for use in assisted  
46 reproduction enters into a written contract to the contrary, the  
47 gamete donor is treated in law as if the gamete donor were not the

1 legal parent of a child thereby conceived and shall have no rights or  
2 duties stemming from the conception of the child.

3

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

5 a. After the gestational carrier becomes pregnant in accordance  
6 with the gestational carrier agreement provided for in  
7 P.L. , c. (C. )(pending before the Legislature as this bill),  
8 the intended parent shall file a complaint for an order of parentage  
9 with the <sup>1</sup>['surrogate'] the Superior Court, Chancery Division,  
10 Family Part<sup>1</sup> of the county of the child's anticipated birth or the  
11 intended parent's or gestational carrier's county of residence.

12 b. Attached to the complaint shall be:

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

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

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

24 c. The Superior Court shall <sup>1</sup>['set a date for a hearing on the  
25 complaint within 35 days of filing. The gestational carrier and her  
26 spouse or partner, if any, shall be given 20 days' notice of the  
27 hearing], to the extent possible, schedule and expedite a hearing on  
28 the matter, except that if the matter is uncontested, the court may  
29 decide the matter without the need for an appearance by the parties.  
30 Notice to all necessary parties shall be made in accordance with the  
31 Rules of Court<sup>1</sup>.

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

34 e. <sup>1</sup>['All hearings shall be held in camera] Notwithstanding any  
35 other law concerning public hearings and records, any action or  
36 proceeding held under P.L. , c. (C. )(pending before the  
37 Legislature as this bill), shall be held in closed court without  
38 admittance of any persons other than those necessary to the action  
39 or proceeding<sup>1</sup>.

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

44 g. After the birth of the child, the order of parentage and  
45 application for the child's birth certificate shall be filed with the  
46 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. )(pending  
40 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 satisfies or  
5 exceeds the specific threshold probability as set by subsection i. of  
6 section 11 of P.L.1983, c.17 (C.9:17-48) creating a rebuttable  
7 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】** 42U.S.C. s.666(a)(5), the child and other parties in a contested  
39 paternity case shall submit to a genetic test upon the request of one  
40 of the parties, unless that person has good cause for refusal, if the  
41 request is supported by a sworn statement by the requesting party:

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

45 (2) denying paternity and setting forth the facts establishing a  
46 reasonable possibility of the nonexistence of sexual contact between  
47 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 and with  
46 the consent of her husband or partner in a civil union, a **[wife]**  
47 woman is inseminated artificially with semen donated by a man not  
48 her husband or partner, the husband or partner is treated in law as if

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

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

23 c. This section shall not apply in a proceeding to determine  
24 parentage of a child born in connection with a gestational carrier  
25 agreement executed in accordance with the provisions of P.L. \_\_\_\_\_,

26 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill).

27 (cf: P.L.1983, c.17, s.7)

28

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

31 15. Evidence relating to paternity may include:

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

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

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

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

45 e. All other evidence on behalf of any party, relevant to the  
46 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)

5  
6       15. R.S.26:8-28 is amended to read as follows:

7       26:8-28. a. (1) Within five days after each birth, there shall be  
8 filed with the local registrar of the district in which the birth  
9 occurred a certificate of the birth filled out with durable black or  
10 blue ink in a legible manner.

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

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

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

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

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

42       d. The certificate of birth shall include the blood type of the  
43 child.  
44 (cf: P.L.1998, c.1, s.42)

45  
46       16. This act shall take effect immediately and shall apply only to  
47 gestational carrier agreements entered into on or after the effective  
48 date.