

SENATE BILL NO. 1599
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1599 (First Reprint) without my approval.

As both Governor and a father, I have a deep and passionate respect for the many views on the best ways to ensure that our communities are comprised of strong and stable families. The decision to welcome children into the world offers prospective parents options including traditional childbirth and adoption that equally unite mothers and fathers with their sons and their daughters. More recently, some parents have explored surrogacy as a means of procreation. Traditionally, surrogacy refers to the artificial insemination of a woman, using her own egg. At the conclusion of the resulting pregnancy, the baby is born and provided to the intended parents. More recently, a practice known as "gestational surrogacy" has emerged from advanced developments in reproductive technology.

In contrast to traditional surrogacy, a gestational surrogate birth does not use the egg of the carrier. Instead, a woman is artificially inseminated using an egg that is not her own, and then carries the child to term. After birth, the baby is turned over to the intended parents. In this scenario, the gestational carrier lacks any genetic connection to the baby and, in some cases, it is feasible that neither parent is genetically related to the child. Instead, children born to gestational surrogates are linked to their parents by contract: an agreement between the parties where a woman promises to give up the child she has carried for nine months. In some cases, however, disputes regarding custody of the child arise between the carrier and the intended parents. This bill attempts to avoid some of these possible disagreements by further enshrining surrogacy relations in the law of contract.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Doing so would now make New Jersey one of the few states in the nation that expressly authorize gestational carrier agreements.

For example, the bill would require that gestational carrier agreements be in writing and executed by the gestational carrier, her spouse or partner, if any, and the intended parent. The agreement would require express terms committing the gestational carrier to a pre-embryonic transfer, a medically reasonable attempt to carry the child, and the immediate surrender of the child to the intended parent upon birth. Such an agreement including these, and other specified terms, would be presumed enforceable in a court.

Permitting adults to contract with others regarding a child in such a manner unquestionably raises serious and significant issues. While some will applaud the freedom to explore these new, and sometimes necessary, arranged births, others will note the profound change in the traditional beginnings of a family that this bill would enact. I am not satisfied that these questions have been sufficiently studied by the Legislature at this time. Validating contracts for the birth of children is a step that cannot be taken without the most serious inquiry, reflection, and consensus. As those steps have not occurred, accordingly, I herewith return Senate Bill No. 1599 (First Reprint) without my approval.

Respectfully,

/s/ Chris Christie
Governor

[seal]

Attest:

/s/ Charles B. McKenna
Chief Counsel to the Governor