

STATE OF NEW YORK

7272

2019-2020 Regular Sessions

IN ASSEMBLY

April 18, 2019

Introduced by M. of A. BICHOTTE -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to legalizing gestational carrier agreements; to amend the family court act, in relation to the status of a child born pursuant to a gestational carrier agreement; to amend the estates, powers and trusts law, in relation to inheritance by a child born pursuant to a gestational carrier agreement; to amend the social services law, in relation to the residency of a child born pursuant to a gestational carrier agreement; to amend the insurance law, in relation to certain liability coverage; to amend the public health law, in relation to the content of birth certificates; and to repeal article 8 of the domestic relations law relating to surrogate parenting contracts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known as the "New York gestational carrier agreement act".

2
3 § 2. Legislative intent. The legislature finds and declares that
4 gestational carrier agreements executed pursuant to this act are in
5 accord with the public policy of this state. It is the intent and
6 purpose of the legislature to establish consistent standards and procedural safeguards to promote the best interests of the children who will
7 be born as a result of gestational carrier agreements, protect all
8 parties involved in gestational carrier agreements and recognize the
9 technological advances in assisted reproductive medicine in ways that
10 allow the use of these advances by intended parents and gestational
11 carriers according to the public policy of New York.

12
13 § 3. Article 8 of the domestic relations law is REPEALED and a new
14 article 8 is added to read as follows:

ARTICLE 8

GESTATIONAL CARRIER AGREEMENTS

15
16
EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD00009-02-9

1 Section 121. Definitions.

2 122. Rights of parentage.

3 123. Eligibility.

4 124. Requirements for a gestational carrier agreement.

5 125. Duty to support.

6 126. Establishment of parent-child relationship.

7 127. Remuneration.

8 128. Prohibitions.

9 129. Certain provisions of law not applicable to gestational
10 carrier agreements.

11 130. Effect of an order of parentage.

12 § 121. Definitions. As used in this article:

13 1. "Advanced practice nurse" means a person certified in accordance
14 with the provisions of:

15 (a) section sixty-nine hundred ten of the education law (nurse practi-
16 tioner practice);

17 (b) section sixty-nine hundred eleven of the education law (clinical
18 nurse specialist);

19 (c) article one hundred forty of the education law (professional
20 midwifery practice act); or

21 (d) as a nurse anesthetist.

22 2. "Assisted reproductive technology" means procreative laboratory
23 procedures involving human eggs or pre-embryos, including, but not
24 limited to: in vitro fertilization; embryo transfer; gamete transfer;
25 pronuclear stage transfer; and zygote transfer.

26 3. "Attorney" means a person licensed to practice law in New York or
27 another state or the District of Columbia.

28 4. "Certified nurse midwife" means a midwife licensed by the state
29 board of medical examiners as a certified nurse midwife pursuant to the
30 provisions of article one hundred forty of the education law.

31 5. "Donor" means a person who contributes gametes for use in assisted
32 reproduction. The term does not include an intended parent who contrib-
33 utes gametes to be used in assisted reproduction pursuant to a valid
34 gestational carrier agreement.

35 6. "Fertilization" means the initial union of the sperm and the egg.

36 7. "Gamete" means sperm or egg.

37 8. "Gestational carrier" means a woman twenty-one years of age or
38 older who agrees to become pregnant for an intended parent by assisted
39 reproductive technology without the use of her own egg.

40 9. "Gestational carrier agreement" means the written contract between
41 the gestational carrier and the intended parent, pursuant to which the
42 intended parent agrees to become the legal parent of a child created
43 through assisted reproductive technology and carried by the gestational
44 carrier.

45 10. "Implantation" means when the fertilized egg adheres to the gesta-
46 tional carrier's uterine wall.

47 11. "Intended parent" means a person who enters into a gestational
48 carrier agreement with a gestational carrier pursuant to section one
49 hundred twenty-four of this article, pursuant to which the person shall
50 be the legal parent of the resulting child. The term shall include
51 persons who are single, married, partners in a civil union or domestic
52 partnership, and couples who are not married or in a civil union or
53 domestic partnership. Any reference to an intended parent shall include
54 both spouses or partners in a civil union or domestic partnership. This
55 term shall include the intended mother, the intended father, the

1 intended mother and intended father, the intended mother and intended
2 mother, or the intended father and intended father.

3 12. "In vitro fertilization" means all medical and laboratory proce-
4 dures that are required to effectuate the formation of a human embryo
5 outside the human body.

6 13. "Medical evaluation" means an evaluation and consultation by a
7 physician, a certified nurse midwife, or an advanced practice nurse.

8 14. "Order of parentage" means a judgment determining parentage pursu-
9 ant to the provisions of a gestational carrier agreement that satisfies
10 the provisions of section one hundred twenty-six of this article.

11 15. "Physician" means a person licensed to practice medicine in New
12 York pursuant to article one hundred thirty-one of the education law, or
13 licensed to practice in any one of the United States or its territories,
14 or the District of Columbia.

15 16. "Pre-embryo" is a fertilized egg prior to fourteen days of devel-
16 opment.

17 17. "Pre-embryo transfer" means all medical and laboratory procedures
18 that are necessary to effectuate the transfer of a pre-embryo into the
19 uterine cavity.

20 18. "Psychological evaluation" means an evaluation and consultation by
21 a clinical social worker, psychotherapist, or psychiatrist licensed by
22 the state of New York or licensed to practice in any one of the United
23 States or its territories, or the District of Columbia.

24 19. "Reasonable expenses" means medical, hospital, counseling or other
25 similar expenses incurred in connection with the gestational carrier
26 agreement, reasonable attorney fees and costs for legal services in
27 connection with the gestational carrier agreement, and the reasonable
28 living expenses of the gestational carrier during her pregnancy includ-
29 ing payments for reasonable food, clothing, medical expenses, shelter,
30 and religious, psychological, vocational, or similar counseling services
31 during the period of the pregnancy and during the period of postpartum
32 recovery. These payments may be made directly to the gestational carrier
33 or on the gestational carrier's behalf to the supplier of the goods or
34 services pursuant to the gestational carrier agreement.

35 § 122. Rights of parentage. 1. Provided that the gestational carrier
36 and the intended parent satisfy the eligibility requirements set forth
37 in section one hundred twenty-three of this article and the gestational
38 carrier agreement satisfies the requirements set forth in section one
39 hundred twenty-four of this article, immediately upon the birth of the
40 child:

41 (a) The intended parent shall be the legal parent of the child;

42 (b) In the case of an intended parent who is a spouse or partner in a
43 civil union or domestic partnership, both spouses or partners shall be
44 the parents of the child; and

45 (c) Neither the gestational carrier nor her spouse or partner, if any,
46 shall be the legal parent of the child.

47 2. In the event of a medical or laboratory error in which the result-
48 ing child is not genetically related to an intended parent whose gamete
49 was intended to be used under the agreement, the intended parent shall
50 be the parent of the child where the gestational carrier agreement
51 satisfies the requirements set forth in section one hundred twenty-four
52 of this article, unless otherwise determined by a court of competent
53 jurisdiction pursuant to a complaint challenging parentage filed by a
54 genetic parent within one hundred twenty days of birth.

55 § 123. Eligibility. 1. A gestational carrier shall be deemed to have
56 satisfied the requirements of section one hundred twenty-four of this

1 article if, at the time the gestational carrier agreement is executed,
2 she:

3 (a) is at least twenty-one years of age;

4 (b) has given birth to at least one child;

5 (c) has completed a medical evaluation approving her suitability to
6 serve as a gestational carrier;

7 (d) has completed a psychological evaluation approving her suitability
8 to serve as a gestational carrier; and

9 (e) has retained an attorney, independent of the intended parent, but
10 for whose services the intended parent may pay, who has consulted with
11 her about the terms of the gestational carrier agreement and the poten-
12 tial legal consequences of being a gestational carrier under the terms
13 of this agreement.

14 2. The intended parent shall be deemed to have satisfied the require-
15 ments of section one hundred twenty-four of this article if, at the time
16 the gestational carrier agreement is executed, the intended parent:

17 (a) has completed a psychological evaluation approving the intended
18 parent's suitability to participate in a gestational carrier agreement;
19 and

20 (b) is represented by an attorney who consulted with the intended
21 parent about the terms of the gestational carrier agreement and the
22 potential legal consequences of the agreement.

23 § 124. Requirements for a gestational carrier agreement. 1. A gesta-
24 tional carrier agreement shall satisfy the following requirements:

25 (a) it is in writing and executed by the gestational carrier, her
26 spouse or partner in a civil union or domestic partnership, if any, and
27 each intended parent. If the intended parent is married or in a domestic
28 partnership or civil union at the time the intended parent enters the
29 agreement, both spouses or partners shall meet the requirements of
30 subdivision two of section one hundred twenty-three of this article and
31 shall be required to enter into the agreement as intended parents. If
32 the intended parent is not married or in a civil union or domestic part-
33 nership, no other person shall be deemed a legal parent of the child
34 unless that person meets the requirements of subdivision two of section
35 one hundred twenty-three of this article and duly executes the agree-
36 ment;

37 (b) it is executed after the required medical and psychological
38 screenings of the gestational carrier and the psychological screening of
39 the intended parent, but prior to the commencement of any other neces-
40 sary medical procedures in furtherance of the implantation of the pre-
41 embryo; and

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

46 2. A gestational carrier agreement shall provide:

47 (a) express terms that the gestational carrier shall:

48 (1) undergo pre-embryo transfer and attempt to carry and give birth to
49 the child;

50 (2) surrender custody of the child to the intended parent immediately
51 upon the child's birth; and

52 (3) have the right to medical care for the pregnancy, labor, delivery,
53 and postpartum recovery provided by a physician, advance practice nurse,
54 or certified nurse midwife of her choice, after she notifies, in writ-
55 ing, the intended parent of her choice.

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

(c) express terms that the intended parent shall:

(1) accept custody of the child immediately upon the child's birth; and

(2) assume sole responsibility for the support of the child immediately upon the child's birth.

3. A gestational carrier agreement shall be presumed enforceable if:

(a) it satisfies the contractual requirements set forth in subdivision one of this section; and

(b) it contains at a minimum each of the terms set forth in subdivision two of this section.

4. In addition, an enforceable gestational carrier agreement shall include a provision setting forth the financial responsibilities of the parties and shall include a provision that the intended parent shall pay the gestational carrier's reasonable expenses, as defined in section one hundred twenty-seven of this article, unless expressly waived, in whole or in part, in writing by the gestational carrier.

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

§ 125. Duty to support. 1. The establishment of the parent and child relationship pursuant to a valid gestational carrier agreement shall be the basis upon which an action for child support may be brought against the intended parent and acted upon by the court without further evidentiary proceedings.

2. The breach of the gestational carrier agreement by the intended parent shall not relieve the intended parent of the support obligations imposed by the parent and child relationship created by the provisions of section one hundred twenty-six of this article.

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

§ 126. Establishment of parent-child relationship. 1. After the gestational carrier becomes pregnant in accordance with the gestational carrier agreement provided for in section one hundred twenty-four of this article, the intended parent shall file a complaint for an order of parentage with the family court of the county of the child's anticipated birth or the intended parent's or gestational carrier's county of residence.

2. Attached to the complaint shall be:

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

(b) an affidavit of representation by the attorney for the intended parent and the attorney for the gestational carrier and her spouse or partner, if any; and

1 (c) a statement from the medical facility which performed the assisted
2 reproduction regarding the achievement of pregnancy in accordance with
3 the gestational carrier agreement.

4 3. The court shall, to the extent possible, schedule and expedite a
5 hearing on the matter, except that if the matter is uncontested, the
6 court may decide the matter without the need for an appearance by the
7 parties. Notice to all necessary parties shall be made in accordance
8 with the rules of court.

9 4. The attorney representing the intended parent shall appear at the
10 hearing unless the court waives an appearance.

11 5. Notwithstanding any other law concerning public hearings and
12 records, any action or proceeding held under this section shall be held
13 in closed court without admittance of any persons other than those
14 necessary to the action or proceeding.

15 6. If the court finds that the parties have complied with the
16 provisions of section one hundred twenty-three of this article, the
17 court shall enter an order of parentage naming the intended parent as
18 the legal parent of the child.

19 7. After the birth of the child, the order of parentage and applica-
20 tion for a birth certificate for the child shall be filed with the
21 registrar of vital statistics of the district in which the birth
22 occurred pursuant to paragraph (b) of subdivision one of section forty-
23 one hundred thirty-eight of the public health law. The registrar shall
24 issue the child's birth certificate naming the intended parent as the
25 parent of the child.

26 8. All records and filings in connection with a gestational carrier
27 agreement shall remain confidential and unavailable to the public,
28 except that such records and filings may be made available to a child
29 born as a result of a valid gestational carrier agreement who has
30 attained at least eighteen years of age and who has submitted a written,
31 notarized request for the records or filings.

32 § 127. Remuneration. Payment of the following expenses shall be allow-
33 able by an intended parent to or on behalf of a gestational carrier
34 pursuant to a valid gestational carrier agreement executed in accordance
35 with the provisions of this article:

36 1. Reasonable and actual medical fees and hospital expenses for
37 assisted reproduction, including artificial insemination or in vitro
38 fertilization services, incurred by the gestational carrier in
39 connection with the conception of the child;

40 2. Reasonable and actual medical fees or hospital charges for services
41 rendered to the gestational carrier in connection with the birth of the
42 child or of other necessary expenses incurred by the gestational carrier
43 in connection with or as a result of her pregnancy or the birth of the
44 child;

45 3. Reasonable and actual nursing, medical or hospital fees for the
46 care of such child, including pre-natal care, if such payment is made to
47 the physician, nurse or hospital who or which rendered the services or
48 to the child;

49 4. Payment of the gestational carrier's reasonable and actual expenses
50 for housing, maternity clothing and clothing for the child;

51 5. Reasonable and necessary transportation expenses of the gestational
52 carrier in seeking medical treatment as described in subdivisions one,
53 two and three of this subdivision; and

54 6. Reasonable and actual legal fees charged for consultation and legal
55 advice, preparation of papers and representation and other legal
56 services rendered in connection with the gestational carrier agreement.

1 § 128. Prohibitions. 1. Except as provided in section one hundred
2 twenty-seven of this article, no person or other entity shall knowingly
3 request, accept, receive, pay or give any fee, compensation or other
4 remuneration, directly or indirectly, in connection with any gestational
5 carrier agreement, or induce, arrange or otherwise assist in arranging a
6 gestational carrier agreement for a fee, compensation or other remunera-
7 tion. The provisions of this subdivision shall not be construed to
8 prohibit the payment of legal fees to an attorney for consultation and
9 legal advice, preparation of papers and representation and other legal
10 services rendered in connection with the gestational carrier agreement.

11 2. No attorney or law firm shall serve as the attorney for, or provide
12 any legal services to both the gestational carrier and the intended
13 parent in regard to a gestational carrier agreement.

14 3. (a) A gestational carrier or her spouse or partner, or an intended
15 parent and his or her spouse or partner who violates this section shall
16 be subject to a civil penalty not to exceed five hundred dollars.

17 (b) Any other person or entity who or which induces, arranges or
18 otherwise assists in the formation of a gestational carrier agreement
19 for a fee, compensation or other remuneration or otherwise violates this
20 section shall be subject to a civil penalty not to exceed ten thousand
21 dollars and forfeiture to the state of any such fee, compensation or
22 remuneration in accordance with the provisions of subdivision (a) of
23 section seventy-two hundred one of the civil practice law and rules, for
24 the first such offense. Any person or entity who or which induces,
25 arranges or otherwise assists in the formation of a gestational carrier
26 agreement for a fee, compensation or other remuneration or otherwise
27 violates this section, after having been once subject to a civil penalty
28 for violating this section, shall be guilty of a felony. The provisions
29 of this section shall not be construed to prohibit an attorney from
30 charging legal fees for consultation and legal advice, preparation of
31 papers and representation and other legal services rendered in
32 connection with the gestational carrier agreement.

33 § 129. Certain provisions of law not applicable to gestational carrier
34 agreements. 1. A gestational carrier agreement shall not be considered
35 an adoption pursuant to article seven of this chapter nor a surrender of
36 custody or termination of parental rights to the child by the gestation-
37 al carrier in violation of the laws of this state.

38 2. A child born pursuant to the terms of a gestational carrier agree-
39 ment shall not be considered to be a child born out of wedlock for the
40 purposes of article five of the family court act or section forty-one
41 hundred thirty-five of the public health law.

42 3. A child born pursuant to the terms of a gestational carrier agree-
43 ment shall not be considered to be a non-marital child for the purposes
44 of the estates, powers and trusts law.

45 § 130. Effect of an order of parentage. 1. (a) After the birth of the
46 child and the issuance of an order of parentage pursuant to section one
47 hundred twenty-six of this article, the gestational carrier and her
48 spouse or partner shall be relieved of all parental duties toward and of
49 all responsibilities for and shall have no rights over such child or to
50 his or her property by descent or succession.

51 (b) The rights of the child to inheritance and succession from and
52 through the gestational carrier and her spouse or partner shall termi-
53 nate upon the birth of the child and the issuance of an order of parent-
54 age pursuant to section one hundred twenty-six of this article and the
55 child shall have no right to the property of the gestational carrier or
56 her spouse or partner by descent or succession.

1 (c) The intended parent and the child shall sustain toward each other
2 the legal relation of parent and child and shall have all the rights and
3 be subject to all the duties of that relation including the rights of
4 inheritance from and through each other and the birth and adopted
5 kindred or other children born pursuant to a gestational carrier agree-
6 ment of the intended parents or parent.

7 (d) The right of inheritance of the child extends to the distributees
8 of such child and such distributees shall be the same as if the child
9 were the birth child of the intended parent.

10 (e) The child and all adoptive children, birth children and other
11 children born pursuant to a gestational carrier agreement of the
12 intended parent shall have all the rights of fraternal relationship
13 including the right of inheritance from each other. Such right of inher-
14 itance extends to the distributees of such children and such distribu-
15 tees shall be the same as if each such child were the birth child of the
16 intended parents.

17 (f) This subdivision shall apply only to the intestate descent and
18 distribution of real and personal property.

19 2. Except as hereinafter stated, after the birth of the child and the
20 issuance of an order of parentage pursuant to section one hundred twen-
21 ty-six of this article, the child and his or her issue thereafter are
22 strangers to any relatives of the gestational carrier and her spouse or
23 partner for the purpose of the interpretation or construction of a
24 disposition in any instrument, whether executed before or after the
25 order of parentage or the birth of the child, which does not express a
26 contrary intention or does not expressly include the child by name or by
27 some classification not based on a parent-child or family relationship.

28 § 4. Section 417 of the family court act is amended to read as
29 follows:

30 § 417. Child of ceremonial marriage. A child born of parents who at
31 any time prior or subsequent to the birth of said child shall have
32 entered into a ceremonial marriage shall be deemed the legitimate child
33 of both parents for all purposes of this article regardless of the
34 validity of such marriage. For purposes of this article, "a child born
35 of parents" shall include a child born pursuant to the provisions of a
36 gestational carrier agreement as provided in article eight of the domes-
37 tic relations law.

38 § 5. Section 2-1.3 of the estates, powers and trusts law, paragraph
39 (a) as amended by chapter 248 of the laws of 1990 and subparagraph 1 of
40 paragraph (a) as amended by chapter 305 of the laws of 2008, is amended
41 to read as follows:

42 § 2-1.3 Adopted children and posthumous children as members of a class

43 (a) Unless the creator expresses a contrary intention, a disposition
44 of property to persons described in any instrument as the issue, chil-
45 dren, descendants, heirs, heirs at law, next of kin, distributees (or by
46 any term of like import) of the creator or of another, includes:

47 (1) Adopted children and their issue in their adoptive relationship.
48 The rights of adopted children and their issue to receive a disposition
49 under wills and lifetime instruments as a member of such class of
50 persons based upon their birth relationship shall be governed by the
51 provisions of subdivision two of section one hundred seventeen of the
52 domestic relations law.

53 (2) Children conceived before, but born alive after such disposition
54 becomes effective.

55 (3) Nonmarital children. For the purposes of this paragraph, a nonmar-
56 ital child is the child of a mother and is the child of a father if the

child is entitled to inherit from such father under section 4-1.2 of this chapter. The provisions of this paragraph shall apply to the wills of persons dying on and after September first, nineteen hundred ninety-one, to lifetime instruments theretofore executed which on said date are subject to the grantor's power to revoke or amend, and to all lifetime instruments executed on or after such date.

(4) Children born pursuant to a gestational carrier agreement.

§ 6. Subdivision 2 of section 117 of the social services law, as amended by chapter 305 of the laws of 2008, is amended to read as follows:

2. An infant shall, at the time of birth, whether within or without the state, be deemed to have state residence if he or she is in the custody of both birth parents and either of them has state residence or if the birth parent having his or her custody has state residence. State residence so acquired by a child born within the state shall continue until the child shall have removed from the state and remained therefrom for one year. State residence so acquired by a child born without the state shall terminate when he or she becomes one year of age if he or she remains without the state during such year. For the purpose of this subdivision and section, (i) a child born out of wedlock whose birth parents were living together on the date of his or her birth shall be deemed to have been in the custody of both his or her parents on such date if his or her birth father has acknowledged or been adjudicated to be such, and (ii) a child born to one or more intended parents pursuant to a gestational carrier agreement executed pursuant to article eight of the domestic relations law shall be deemed to have state residence if he or she is in the custody of both intended parents, an order of paternity has been issued pursuant to section one hundred twenty-six of the domestic relations law and either of the intended parents has state residence.

§ 7. Subparagraph (D) of paragraph 17 of subsection (a) of section 1113 of the insurance law, as amended by chapter 551 of the laws of 1997, is amended and a new subparagraph (D-1) is added to read as follows:

(D) Indemnifying an adoptive parent for verifiable expenses not prohibited under the law paid to or on behalf of the birth mother when either one or both of the birth parents of the child withdraw or withhold their consent to adoption. Such expenses may include maternity-connected medical or hospital expenses of the birth mother, necessary living expenses of the birth mother preceding and during confinement, travel expenses of the birth mother to arrange for the adoption of the child, legal fees of the birth mother, and any other expenses which an adoptive parent may lawfully pay to or on behalf of the birth mother. For the purposes of this section "adoptive parent" means the parent or his or her spouse seeking to adopt a child, "birth mother" means the biological mother of the child, "birth parent" means the biological mother or biological father of the child; [✗]

(D-1) Indemnifying an intended parent who is party to a gestational carrier agreement pursuant to article eight of the domestic relations law for verifiable expenses not prohibited under the law paid to or on behalf of the gestational carrier when the gestational carrier fails to comply with the gestational carrier agreement. Such expenses may include maternity-connected medical or hospital expenses of the gestational carrier, necessary living expenses of the gestational carrier preceding and during confinement, travel expenses of the gestational carrier to obtain medical care, legal fees of the gestational carrier, and any

1 other expenses which the intended parent may lawfully pay to or on
2 behalf of the gestational carrier; or

3 § 8. Subdivision 4 of section 4132 of the public health law is amended
4 to read as follows:

5 4. In the case of a child born in connection with a gestational carri-
6 er agreement executed in accordance with the provisions of article eight
7 of the domestic relations law, the name of the intended parent shall be
8 included on the record of birth as the child's parent.

9 5. The registrar shall enter the exact date of filing of the certif-
10 icate of birth in his office attested by his official signature and
11 registered number of birth.

12 § 9. Severability. If any clause, sentence, paragraph, section or part
13 of this act shall be adjudged by any court of competent jurisdiction to
14 be invalid and after exhaustion of all further judicial review, the
15 judgment shall not affect, impair or invalidate the remainder thereof,
16 but shall be confined in its operation to the clause, sentence, para-
17 graph, section or part of this act directly involved in the controversy
18 in which the judgment shall have been rendered.

19 § 10. This act shall take effect on the ninetieth day after it shall
20 have become a law and shall apply only to gestational carrier agreements
21 entered into on or after such effective date. Effective immediately the
22 addition, amendment and/or repeal of any rule or regulation necessary
23 for the implementation of this act on its effective date are authorized
24 to be made and completed on or before such date.