

STATE OF NEW YORK

819

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act and the general business law, in relation to surrogacy agreements; and to amend a chapter of the laws of 2024 amending the family court act, the domestic relations law and the general business law relating to surrogacy programs and agreements, as proposed in legislative bills numbers S. 5107-C and A. 4921-C

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

1 Section 1. Subdivisions (j), (k) and (s) of section 581-102 of the
2 family court act, as amended by a chapter of the laws of 2024 amending
3 the family court act, the domestic relations law and the general busi-
4 ness law relating to surrogacy programs and agreements, as proposed in
5 legislative bills numbers S. 5107-C and A. 4921-C, are amended to read
6 as follows:

7 (j) "In vitro fertilization" means the formation of a human embryo
8 outside the human body for purposes of assisted reproduction.

9 (k) "Intended parent" is an individual who manifests the intent to be
10 legally bound as the parent of a child resulting from assisted reprod-
11 uction or a surrogacy agreement, provided [~~he or she~~] the individual
12 meets the requirements of this article.

13 (s) "Surrogacy agreement" means an agreement between at least one
14 intended parent and a person acting as surrogate intended to result in a
15 live birth where the child will be the legal child of the intended
16 parent or parents.

17 § 2. Subdivision (d) of section 581-203 of the family court act, as
18 amended by a chapter of the laws of 2024 amending the family court act,
19 the domestic relations law and the general business law relating to

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

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1 surrogacy programs and agreements, as proposed in legislative bills
2 numbers S. 5107-C and A. 4921-C, is amended to read as follows:

3 (d) Where the court finds the statements required by subdivision (c)
4 of this section to be true, the court shall issue a judgment of parent-
5 age, without additional proceedings or documentation:

6 (1) declaring, that upon the birth of the child born during the term
7 of the surrogacy agreement, the intended parent or parents are the only
8 legal parent or parents of the child;

9 (2) declaring, that upon the birth of the child born during the term
10 of the surrogacy agreement, the person acting as surrogate, and the
11 spouse of the person acting as surrogate, if applicable, is not a legal
12 parent of the child;

13 (3) declaring that upon the birth of the child born during the term of
14 the surrogacy agreement, any donor, if applicable, is not a parent of
15 the child;

16 (4) ordering the person acting as surrogate and the spouse of the
17 person acting as surrogate, if any, to transfer the child to the
18 intended parent or parents if this has not already occurred;

19 (5) ordering the intended parent or parents to assume responsibility
20 for the maintenance and support of the child immediately upon the birth
21 of the child; and

22 (6) ordering that:

23 (i) The hospital birth registrar shall report the parentage of the
24 child on the record of live birth in conformity with the judgment of
25 parentage, if the judgment of parentage is issued before the birth of
26 the child; and

27 (ii) If a change to the child's birth certificate is necessitated by
28 the judgment of parentage, then pursuant to section two hundred fifty-
29 four of the judiciary law, the clerk of the court shall transmit to the
30 state commissioner of health, or for a person born in New York city, to
31 the commissioner of health of the city of New York, on a form prescribed
32 by the commissioner, a written notification of such entry together with
33 such other facts as may assist in identifying the birth record of the
34 person whose parentage was in issue and, if the person whose parentage
35 has been determined is under eighteen years of age, the clerk shall also
36 transmit to the registry operated by the department of social services
37 pursuant to section three hundred seventy-two-c of the social services
38 law a notification of the determination; and

39 (iii) Pursuant to section forty-one hundred thirty-eight of the public
40 health law and NYC Public Health Code section 207.05 that upon receipt
41 of a judgement of parentage the local registrar where a child is born
42 will report the parentage of the child to the appropriate department of
43 health in conformity with the court order. If an original birth certif-
44 icate has already been issued, the appropriate department of health will
45 amend the birth certificate in an expedited manner and seal the previ-
46 ously issued birth certificate except that it may be rendered accessible
47 to the child at eighteen years of age or the legal parent or parents;
48 and

49 (7) if the judgment of parentage is issued prior to the birth of the
50 child, ordering the petitioner or petitioners, within [~~seven~~] fourteen
51 days of such birth, to provide the court with notification thereof,
52 together with such other facts as may assist in identifying the birth
53 record of the child whose parentage was in issue. Such notification
54 shall be in writing on a form to be prescribed by the chief administra-
55 tor of the courts. The court shall thereafter issue an amended judgment

1 of parentage that includes the child's name as it appears on the child's
2 birth certificate and the child's date of birth.

3 § 3. Paragraphs 7 and 8 of subdivision (a) of section 581-402 of the
4 family court act, as amended by a chapter of the laws of 2024 amending
5 the family court act, the domestic relations law and the general busi-
6 ness law relating to surrogacy programs and agreements, as proposed in
7 legislative bills numbers S. 5107-C and A. 4921-C, is amended to read as
8 follows:

9 (7) the person acting as surrogate has or the surrogacy agreement
10 stipulates that the person acting as surrogate will obtain a comprehen-
11 sive health insurance [~~coverage~~] policy that takes effect [~~after the~~
12 ~~person acting as surrogate has been deemed medically eligible but~~] prior
13 to taking any medication or commencing treatment to further embryo
14 transfer that covers[+]

15 ~~(i) preconception care. The surrogacy agreement shall state that the~~
16 ~~intended parent or parents will be responsible for all medical costs of~~
17 ~~the person acting as surrogate associated with their preconception care~~
18 ~~including but not limited to medical and psychological screenings, medi-~~
19 ~~cations, embryo transfer procedure, monitoring prior and subsequent to~~
20 ~~the embryo transfer procedure and any complications associated with the~~
21 ~~foregoing. The intended parent or parents shall be responsible for the~~
22 ~~costs of any such complications either through insurance or by placing~~
23 ~~and maintaining sufficient funds in escrow to cover such expenses. If~~
24 ~~the surrogacy agreement is terminated after the person acting as surro-~~
25 ~~gate has taken any medication or commenced treatment to further embryo~~
26 ~~transfer but before pregnancy is achieved, such funds shall remain in~~
27 ~~escrow for a minimum period of six months from the date the surrogacy~~
28 ~~agreement is terminated;~~

29 ~~(ii) medical expenses associated with pregnancy. The person acting as~~
30 ~~surrogate has, or the surrogacy agreement shall stipulate that the~~
31 ~~person acting as surrogate will obtain, comprehensive health insurance~~
32 ~~coverage, via one or more insurance policies, prior to or immediately~~
33 ~~upon confirmation of pregnancy that covers prenatal care, major medical~~
34 ~~treatments, hospitalization, behavioral health care, childbirth and~~
35 ~~postnatal care, and that such comprehensive coverage must be in place~~
36 ~~throughout the duration of the pregnancy and for twelve months after the~~
37 ~~birth of the child, a stillbirth, a miscarriage resulting in termination~~
38 ~~of the pregnancy, or termination of the pregnancy. The policy shall be~~
39 ~~paid for, whether directly or through reimbursement or other means, by~~
40 ~~the intended parent or parents on behalf of the person acting as surro-~~
41 ~~gate to the extent that there is an additional cost to the person acting~~
42 ~~as surrogate for such health insurance coverage. The intended parent or~~
43 ~~parents shall also pay for or reimburse the person acting as surrogate~~
44 ~~for all co-payments, deductibles and any other out-of-pocket medical~~
45 ~~costs associated with pregnancy, childbirth, or postnatal care, that~~
46 ~~accrue through twelve months after the birth of the child, a stillbirth,~~
47 ~~a miscarriage resulting in termination of the pregnancy, or termination~~
48 ~~of the pregnancy; and~~

49 ~~(iii) uncompensated surrogacy agreements. A person acting as surrogate~~
50 ~~who is receiving no compensation may waive the right to have the~~
51 ~~intended parent or parents make the payments set forth in this section]~~
52 preconception care, prenatal care, major medical treatments, hospitali-
53 zation, and behavioral health care, and the comprehensive policy has a
54 term that extends throughout the duration of the expected pregnancy and
55 for twelve months after the birth of the child, a stillbirth, a miscar-
56 riage resulting in termination of pregnancy, or termination of the preg-

1 nancy; the policy shall be paid for, whether directly or through
 2 reimbursement or other means, by the intended parent or parents on
 3 behalf of the person acting as surrogate pursuant to the surrogacy
 4 agreement, except that a person acting as surrogate who is receiving no
 5 compensation may waive the right to have the intended parent or parents
 6 pay for the health insurance policy. The intended parent or parents
 7 shall also pay for or reimburse the person acting as surrogate for all
 8 co-payments, deductibles and any other out-of-pocket medical costs asso-
 9 ciated with preconception, pregnancy, childbirth, or postnatal care,
 10 that accrue through twelve months after the birth of the child, a still-
 11 birth, a miscarriage, or termination of the pregnancy. A person acting
 12 as surrogate who is receiving no compensation may waive the right to
 13 have the intended parent or parents make such payments or
 14 reimbursements;

15 (8) the surrogacy agreement must provide that the intended parent or
 16 parents shall procure and pay for a life insurance~~[, contractual liability~~
 17 ~~or accidental death insurance]~~ policy for the person acting as
 18 surrogate that takes effect prior to taking any medication or the
 19 commencement of medical procedures to further embryo transfer, provides
 20 a minimum benefit of seven hundred fifty thousand dollars or the maximum
 21 amount the person acting as surrogate qualifies for if ~~[it is]~~ less than
 22 seven hundred fifty thousand dollars, and ~~[such coverage shall extend]~~
 23 has a term that extends throughout the duration of the expected pregnan-
 24 cy and for twelve months after the birth of the child, a stillbirth, a
 25 miscarriage resulting in termination of pregnancy, or termination of the
 26 pregnancy, with a beneficiary or beneficiaries of ~~[the person acting as~~
 27 ~~surrogate's]~~ their choosing. The policy shall be paid for, whether
 28 directly or through reimbursement or other means, by the intended parent
 29 or parents on behalf of the person acting as surrogate pursuant to the
 30 surrogacy agreement, except that a person acting as surrogate who is
 31 receiving no compensation may waive the right to have the intended
 32 parent or parents pay for the life insurance~~[, contractual liability or~~
 33 ~~accidental death insurance]~~ policy ~~[but not the requirement to have such~~
 34 ~~a policy]~~; and

35 § 4. Subdivision (g) of section 581-403 of the family court act, as
 36 amended by a chapter of the laws of 2024 amending the family court act,
 37 the domestic relations law and the general business law relating to
 38 surrogacy programs and agreements, as proposed in legislative bills
 39 numbers S. 5107-C and A. 4921-C, is amended to read as follows:

40 (g) the surrogacy agreement must include information disclosing how
 41 the intended parent or parents will cover the medical expenses of the
 42 person acting as surrogate and the child. ~~[The surrogacy agreement shall~~
 43 ~~specify the amount that the intended parent or parents shall place in~~
 44 ~~escrow to cover such reasonable anticipated costs including precon-~~
 45 ~~ception medical care and extending throughout the duration of the~~
 46 ~~expected surrogacy agreement. If it is anticipated that comprehensive~~
 47 ~~health care coverage will be used to cover the medical expenses for the~~
 48 ~~person acting as surrogate, the]~~ If comprehensive health care coverage
 49 is used to cover the medical expenses, the disclosure shall include a
 50 review and summary of the health care policy provisions related to
 51 coverage and exclusions for the person acting as ~~[surrogate shall be~~
 52 ~~reviewed and summarized in relation to the anticipated pregnancy prior~~
 53 ~~to such policy being used to cover any of the person acting as surro-~~
 54 ~~gate's medical expenses incurred pursuant to the surrogacy agreement]~~
 55 surrogate's pregnancy; and

1 § 5. Subparagraph (x) of paragraph 1 of subdivision (i) of section
2 581-403 of the family court act, as amended by a chapter of the laws of
3 2024 amending the family court act, the domestic relations law and the
4 general business law relating to surrogacy programs and agreements, as
5 proposed in legislative bills numbers S. 5107-C and A. 4921-C, is
6 amended to read as follows:

7 (x) the surrogacy agreement shall provide that, upon the person acting
8 as surrogate's request, the intended parent or parents [~~shall~~] have or
9 will procure and pay for a disability insurance policy [~~or other insur-~~
10 ~~ance policy to cover any lost wages incurred by~~] for the person acting
11 as surrogate [~~in connection with their participation in the surrogacy~~
12 ~~agreement after taking any medication or commencing treatment to further~~
13 ~~embryo transfer excluding medical procedures required to determine the~~
14 ~~medical eligibility to become a person acting as surrogate. In the event~~
15 ~~that such insurance coverage is not available, the intended parent or~~
16 ~~parents shall reimburse the person acting as surrogate for any lost~~
17 ~~wages the person acting as surrogate incurs in connection with their~~
18 ~~participation in the surrogacy agreement~~]; the person acting as surro-
19 gate may designate the beneficiary of the person's choosing.

20 § 6. Section 581-405 of the family court act, as amended by a chapter
21 of the laws of 2024 amending the family court act, the domestic
22 relations law and the general business law relating to surrogacy
23 programs and agreements, as proposed in legislative bills numbers S.
24 5107-C and A. 4921-C, is amended to read as follows:

25 § 581-405. Termination of surrogacy agreement. After the execution of
26 a surrogacy agreement but before the [~~embryo transfer occurs or after an~~
27 ~~unsuccessful embryo transfer~~] person acting as surrogate becomes preg-
28 nant by means of assisted reproduction, the person acting as surrogate,
29 the spouse of the person acting as surrogate, if applicable, or any
30 intended parent may terminate the surrogacy agreement by giving notice
31 of termination in a record to all other parties. Upon proper termination
32 of the surrogacy agreement the parties are released from all obligations
33 recited in the surrogacy agreement except that the intended parent or
34 parents [~~shall~~] remain responsible for all [~~lost wages and other finan-~~
35 ~~cial obligations which have accrued~~] expenses that are reimbursable
36 under the agreement which have been incurred by the person acting as
37 surrogate through the date of termination. If the intended parent or
38 parents terminate the surrogacy agreement pursuant to this section after
39 the person acting as surrogate has taken any medication or commenced
40 treatment to further embryo transfer, such intended parent or parents
41 shall be responsible for paying for or reimbursing the person acting as
42 surrogate for all co-payments, deductibles, any other out-of-pocket
43 medical costs, and any other economic losses incurred within twelve
44 months [~~after~~] of the termination of the agreement [~~which, as documented~~
45 ~~by a health care practitioner, are~~] and associated with taking such
46 medication or undertaking such treatment. Unless the agreement provides
47 otherwise, the person acting as surrogate is entitled to keep all
48 payments received and obtain all payments to which the person is enti-
49 tled up until the date of termination of the agreement. Neither a
50 person acting as surrogate nor the spouse of the person acting as surro-
51 gate, if [~~applicable~~] any, is liable to the intended parent or parents
52 for terminating a surrogacy agreement as provided in this section.

53 § 7. Section 581-604 of the family court act, as amended by a chapter
54 of the laws of 2024 amending the family court act, the domestic
55 relations law and the general business law relating to surrogacy

1 programs and agreements, as proposed in legislative bills numbers S.
2 5107-C and A. 4921-C, is amended to read as follows:

3 § 581-604. Health insurance and medical costs. A person acting as
4 surrogate has the right to have a comprehensive health insurance [cover-
5 age] policy that covers pre-conception [~~medical expenses and medical~~
6 ~~expenses associated with the pregnancy]~~ care, prenatal care, major
7 medical treatments, hospitalization and behavioral care for a [~~period]~~
8 term that extends throughout the duration of the expected pregnancy and
9 for twelve months after the birth of the child, a stillbirth, a miscar-
10 riage resulting in termination of pregnancy, or termination of the preg-
11 nancy, to be paid for by the intended parent or parents. [~~In addition,~~
12 ~~a person acting as a surrogate shall have the right to have the intended~~
13 ~~parent or parents pay for all of their medical expenses incurred in~~
14 ~~connection with the surrogacy agreement, continuing through the duration~~
15 ~~of the expected pregnancy and for twelve months after the birth of the~~
16 ~~child, a stillbirth, a miscarriage resulting in the termination of preg-~~
17 ~~nancy, or the termination of the pregnancy.] The intended parent or~~
18 parents shall also pay for or reimburse the person acting as surrogate
19 for all co-payments, deductibles and any other out-of-pocket medical
20 costs associated with pregnancy, childbirth, or postnatal care that
21 accrue through twelve months after the birth of the child, a stillbirth,
22 a miscarriage, or the termination of the pregnancy. A person acting as a
23 surrogate who is receiving no compensation may waive the right to have
24 the intended parent or parents make such payments or reimbursements.

25 § 8. Section 581-605 of the family court act, as amended by a chapter
26 of the laws of 2024 amending the family court act, the domestic
27 relations law and the general business law relating to surrogacy
28 programs and agreements, as proposed in legislative bills numbers S.
29 5107-C and A. 4921-C, is amended to read as follows:

30 § 581-605. Counseling. A person acting as surrogate has the right to
31 [~~mental health]~~ obtain a comprehensive health insurance policy that
32 covers behavioral health care and will cover the cost of psychological
33 counseling to address issues resulting from their participation in [~~the~~
34 a surrogacy [~~agreement, which]~~ and such policy shall be paid for by [~~an~~
35 ~~insurance policy or by]~~ the intended parent or parents.

36 § 9. Section 581-606 of the family court act, as amended by a chapter
37 of the laws of 2024 amending the family court act, the domestic
38 relations law and the general business law relating to surrogacy
39 programs and agreements, as proposed in legislative bills numbers S.
40 5107-C and A. 4921-C, is amended to read as follows:

41 § 581-606. Life insurance[~~, contractual liability, or accidental death~~
42 ~~insurance policy]~~. A person acting as surrogate has the right to be
43 provided a life insurance, [~~contractual liability or accidental death~~
44 ~~insurance]~~ policy that takes effect prior to taking any medication or
45 commencement of treatment to further embryo transfer, provides a minimum
46 benefit of seven hundred fifty thousand dollars, or the maximum amount
47 the person acting as surrogate [~~qualifies]~~ qualifying for [~~if]~~ it less
48 than seven hundred fifty thousand dollars, and [~~such coverage shall~~
49 ~~extend]~~ has a term that extends throughout the duration of the expected
50 pregnancy and for twelve months after the birth of the child, a still-
51 birth, a miscarriage resulting in termination of pregnancy, or termi-
52 nation of the pregnancy, with a beneficiary or beneficiaries of [~~the~~
53 ~~person acting as surrogate's]~~ their choosing, to be paid for by the
54 intended parent or parents.

55 § 10. Section 581-705 of the family court act, as added by a chapter
56 of the laws of 2024 amending the family court act, the domestic

1 relations law and the general business law relating to surrogacy
2 programs and agreements, as proposed in legislative bills numbers S.
3 5107-C and A. 4921-C, is amended to read as follows:

4 § 581-705. Adjudication. (a) A court adjudicating the parentage of a
5 child conceived through assisted reproduction or adjudicating the
6 enforceability of an embryo disposition agreement may apply section
7 581-202 and part three of this article retroactively.

8 (b) The participants in a surrogacy agreement that involved the
9 payment of compensation prior to February fifteenth, two thousand twen-
10 ty-one shall not be eligible to receive a judgment of parentage pursuant
11 to section 581-203 or section 581-406 of this article, but shall be
12 entitled to seek a judgment of parentage pursuant to section 581-407 of
13 this article.

14 (c) This article shall apply retroactively to uncompensated surrogacy
15 agreements entered into prior to February fifteenth, two thousand [~~twen-~~
16 ~~ty-two~~] twenty-one, with regard to a court adjudication the parentage of
17 a child.

18 (d) Surrogacy agreements that were executed on or after February
19 fifteenth, two thousand [~~twenty-three~~] twenty-one, but before the effec-
20 tive date of the chapter of the laws of two thousand twenty-four that
21 added this subdivision that were in compliance with this article before
22 it was amended by the chapter of the laws of two thousand twenty-four
23 that added this subdivision shall be deemed a compliant surrogacy
24 agreement pursuant to section 581-406 of this article regardless of any
25 deviations from the current provisions of this article.

26 § 11. Subdivision (c) of section 1400 of the general business law, as
27 amended by a chapter of the laws of 2024 amending the family court act,
28 the domestic relations law and the general business law relating to
29 surrogacy programs and agreements, as proposed in legislative bills
30 numbers S. 5107-C and A. 4921-C, is amended to read as follows:

31 (c) "Surrogacy program" does not include any party to a surrogacy
32 agreement or any person licensed to practice law and representing a
33 party to the surrogacy agreement, but does include and is not limited to
34 any agency, agent, business, or individual engaged in, arranging, or
35 facilitating transactions contemplated by a surrogacy agreement, regard-
36 less of whether such agreement ultimately comports with the requirements
37 of part four of article five-C of the family court act. [~~Any person~~
38 ~~licensed to practice law shall be deemed a surrogacy program only in~~
39 ~~those cases where such person is providing matching services to the~~
40 ~~intended parent or parents and the person acting as a surrogate.]~~

41 § 12. Subdivision 1 of section 1404 of the general business law, as
42 amended by a chapter of the laws of 2024 amending the family court act,
43 the domestic relations law and the general business law relating to
44 surrogacy programs and agreements, as proposed in legislative bills
45 numbers S. 5107-C and A. 4921-C, is amended to read as follows:

46 1. The department of health, in consultation with the department of
47 financial services, shall promulgate rules and regulations to implement
48 the requirements of this article regarding surrogacy programs and
49 assisted reproduction service providers in a manner that ensures the
50 safety and health of gamete providers and persons serving as surrogates.
51 Such regulations shall, at a minimum:

52 (a) Require surrogacy programs to monitor compliance with eligibility
53 criteria for the intended parents and persons acting as surrogates
54 pursuant to section 581-402 of the family court act; and

55 (b) Require the assisted reproduction service providers to administer
56 informed consent procedures that comply with regulations promulgated by

1 the department of health under section twenty-five hundred ninety-nine-
2 cc of the public health law.

3 § 13. Section 27 of a chapter of the laws of 2024 amending the family
4 court act, the domestic relations law and the general business law
5 relating to surrogacy programs and agreements, as proposed in legisla-
6 tive bills numbers S. 5107-C and A. 4921-C, is amended to read as
7 follows:

8 § 27. This act shall take effect immediately; provided, however, that
9 the amendments to subparagraph (i) of paragraph 4 and paragraph 5 of
10 subdivision (g) of section 581-202 of the family court act made by
11 section two of this act, and to subparagraph (i) of paragraph 6 and
12 paragraph 7 of subdivision (d) of section 581-203 of the family court
13 act made by section three of this act shall take effect three years
14 after it shall have become a law.

15 § 14. This act shall take effect immediately; provided, however, that
16 sections one through twelve of this act shall take effect on the same
17 date and in the same manner as a chapter of the laws of 2024 amending
18 the family court act, the domestic relations law and the general busi-
19 ness law relating to surrogacy programs and agreements, as proposed in
20 legislative bills numbers S. 5107-C and A. 4921-C, takes effect.