

78B-15-803 Hearing to validate gestational agreement.

- (1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.
- (2) The tribunal may issue an order under Subsection (1) only on finding that:
 - (a) the residence requirements of Section 78B-15-802 have been satisfied and the parties have submitted to jurisdiction of the tribunal under the jurisdictional standards of this part;
 - (b) medical evidence shows that the intended mother is unable to bear a child or is unable to do so without unreasonable risk to her physical or mental health or to the unborn child;
 - (c) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with Sections 78B-6-128 through 78B-6-131, and the intended parents meet the standards of fitness applicable to adoptive parents;
 - (d) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate signed by the licensed mental health professional which affirms that all parties have discussed options and consequences of the agreement and presented to the tribunal;
 - (e) all parties have voluntarily entered into the agreement and understand its terms;
 - (f) the prospective gestational mother has had at least one pregnancy and delivery and her bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;
 - (g) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for those expenses if the agreement is terminated;
 - (h) the consideration, if any, paid to the prospective gestational mother is reasonable;
 - (i) all the parties to the agreement are 21 years of age or older;
 - (j) the gestational mother's eggs are not being used in the assisted reproduction procedure; and
 - (k) if the gestational mother is married, her husband's sperm is not being used in the assisted reproduction procedure.
- (3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

Renumbered and Amended by Chapter 3, 2008 General Session