

HB0234S01 compared with HB0234

~~text~~ shows text that was in HB0234 but was deleted in HB0234S01.

text shows text that was not in HB0234 but was inserted into HB0234S01.

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Senator Lyle W. Hillyard proposes the following substitute bill:

GESTATIONAL AGREEMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: ~~_____~~ Todd Weiler

LONG TITLE

General Description:

This bill addresses a hearing before a tribunal to validate a gestational agreement.

Highlighted Provisions:

This bill:

- ▶ addresses the Utah Supreme Court's decision in *In re Gestational Agreement*, 2019 UT 40, 449 P.3d 69;
- ▶ ~~repeals a requirement that a party~~ requires an intended mother demonstrate certain medical evidence in order to obtain a valid gestational agreement from a tribunal; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-15-803, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-15-803** is amended to read:

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 the jurisdiction of the tribunal under the jurisdictional standards of this part;

~~ff~~(b) if an intended parent is a woman, 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;~~ff~~

~~ff~~(c) ~~ff~~(b) 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;

~~ff~~(d) ~~ff~~ ~~ff~~(c) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate:

(i) signed by the licensed mental health professional [~~which~~] that affirms that all parties have discussed options and consequences of the agreement; and

(ii) presented to the tribunal;

~~ff~~(e) ~~ff~~ ~~ff~~(d) all parties have voluntarily entered into the agreement and understand [its] the agreement's terms;

~~ff~~(f) ~~ff~~ ~~ff~~(e) 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

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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]~~ all reasonable health-care expense 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]~~ old 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.