



General Assembly

January Session, 2001

***Raised Bill No. 1419***

LCO No. 4909

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING ASSISTED REPRODUCTION AND  
GESTATIONAL AGREEMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) As used in sections 1 to 20, inclusive, of this act:
- 2 (1) "Assisted reproduction" means a method, other than sexual  
3 intercourse, of causing pregnancy. The term includes, but is not limited  
4 to: (A) Artificial insemination; (B) transfer of gametes or embryos; and  
5 (C) in-vitro fertilization.
- 6 (2) "Child" means an individual of any age whose parentage may be  
7 determined under sections 1 to 20, inclusive, of this act.
- 8 (3) "Donor" means an individual who produces eggs or sperm used  
9 for assisted reproduction, whether or not for consideration. The term  
10 does not include: (A) A husband who provides sperm, or a wife who  
11 provides eggs, to be used for assisted reproduction by the wife; (B) an  
12 unmarried man who provides his sperm to be used for assisted  
13 reproduction by an unmarried woman who both intend to be parents  
14 of the resulting child; or (C) a woman who gives birth to a child by

15 means of assisted reproduction, except as otherwise provided in  
16 sections 13 to 20, inclusive, of this act.

17 (4) "Gestational agreement" is an agreement described in section 13  
18 of this act.

19 (5) "Gestational carrier" means the woman who agrees, pursuant to  
20 a gestational agreement, to bear a child for an intended parent.

21 (6) "Embryo transfer" means to place an embryo into the uterus of a  
22 woman intended to gestate the embryo.

23 (7) "Gametes" means egg or sperm.

24 (8) "Health care provider" means a health care provider, as defined  
25 in section 20-7f of the general statutes, who provides assisted  
26 reproduction services or facilitates gamete or embryo donation.

27 (9) "Intended parent" means one or two individuals who enter into a  
28 gestational agreement providing that the individual will be parent of a  
29 child born to a gestational carrier pursuant to a gestational agreement  
30 approved under this act, whether or not the intended parent has a  
31 genetic relationship with the child.

32 (10) "Record" means information that is inscribed on a tangible  
33 medium or that is stored in an electronic or other medium and is  
34 retrievable in perceivable form.

35 Sec. 2. (NEW) (a) Sections 1 to 20, inclusive, of this act does not  
36 apply to the birth of a child conceived by means of sexual intercourse.

37 (b) The provisions of sections 1 to 20, inclusive, of this act may not  
38 be waived.

39 (c) Except as provided in sections 1 to 20, inclusive, of this act, said  
40 sections do not create, enlarge or diminish parental rights and duties  
41 as established by any other law of this state.

42       Sec. 3. (NEW) A donor is not a parent of a child conceived by a  
43 means of assisted reproduction with the donor's gametes. Neither a  
44 donor nor any person claiming by or through a donor has a right or  
45 interest in a child or the estate of a child born by means of assisted  
46 reproduction. A child born by means of assisted reproduction is not an  
47 heir of a donor.

48       Sec. 4. (NEW) Any violation of sections 1 to 20, inclusive, of this act  
49 by a health care provider shall be a matter of discipline by the  
50 Department of Public Health under sections 19a-14 and 19a-17 of the  
51 general statutes.

52       Sec. 5. (NEW) (a) No health care provider may assist a woman to  
53 become pregnant through assisted reproduction unless the health care  
54 provider maintains the following information about the donor: Family  
55 medical and mental health history; substance abuse history and results  
56 of any genetic testing done as part of donor screening. All such  
57 information is confidential and subject to inspection, in a manner that  
58 does not disclose the identity of the donor, only by a potential recipient  
59 of gametes of the donor, by the parent or guardian of a child born as  
60 the result of assisted reproduction using the gametes of the donor, and  
61 by the child when such child is eighteen years of age or older. Identity  
62 of the donor may be disclosed in the manner described in subsection  
63 (b) of this section.

64       (b) A donor shall select to enter a nonanonymous donor program or  
65 an anonymous donor program. Recipients of donor gametes may  
66 choose to receive gametes from either the nonanonymous donor  
67 program or the anonymous donor program. In the nonanonymous  
68 donor program, the identity of the donor is available from the health  
69 care provider to the parent or guardian of the child born as the result  
70 of assisted reproduction and to the child when such child is eighteen  
71 years of age or older. In the anonymous donor program, the identity of  
72 the donor is confidential, not available to the parent or guardian of the  
73 child born as the result of assisted reproduction and to the child.

74 Donor and potential recipients of donor gametes shall receive  
75 adequate counseling by the health care provider regarding the  
76 implications of using the nonanonymous and anonymous programs.

77 (c) The health care provider shall, before receiving eggs, sperm or  
78 embryos for donation, record the address of the donor and request the  
79 donor to keep a current address on file with the health care provider.

80 (d) The provisions concerning maintenance and inspection of  
81 records of the identity of donors do not apply to donors of eggs and  
82 sperm collected before the effective date of this act.

83 (e) The Department of Public Health shall, pursuant to chapter 54 of  
84 the general statutes, adopt regulations to implement the provisions of  
85 this section.

86 Sec. 6. (NEW) (a) This section does not apply to the parentage of a  
87 child conceived as the result of a gestational agreement as provided in  
88 section 13 of this act.

89 (b) A woman who gives birth to a child by means of assisted  
90 reproduction is the mother of a resulting child.

91 (c) A husband, who provides his sperm for, or consents to, assisted  
92 reproduction by his wife as provided in section 9 of this act, is the  
93 father of a resulting child born to his wife. Failure of a husband to sign  
94 the consent required by subsection (b) of section 9 of this act, before or  
95 after birth of the child, does not preclude a finding that the husband is  
96 the father of a child born to his wife if the wife and husband openly  
97 treated the child as their own.

98 (d) An unmarried man, who provides his sperm for assisted  
99 reproduction by an unmarried woman with the intent that they both  
100 be the parents of the resulting child, is the father of a resulting child  
101 born to the woman if the man and woman have signed the consent  
102 provided in section 9 of this act.

103       Sec. 7. (NEW) A child born as a result of assisted reproduction is, in  
104 all respects, the child of the mother and father described in section 6 of  
105 this act or, in the case of a gestational agreement, the child of the  
106 intended parent.

107       Sec. 8. (NEW) (a) This section does not apply to a gestational  
108 agreement as provided in section 13 of this act.

109       (b) A child conceived as a result of assisted reproduction performed  
110 in this state and born in another jurisdiction shall have his or her status  
111 determined by the law of the other jurisdiction unless the mother of  
112 the child resides in this state both at the time of conception and of birth  
113 of the child.

114       (c) If a child is conceived by assisted reproduction in another  
115 jurisdiction but is born in this state to a woman who, at the time of  
116 conception, was not a resident of this state, but is a resident at the time  
117 of the birth of the child, the child shall have the same status as is  
118 provided in section 7 of this act, notwithstanding any failure to comply  
119 with the provisions of section 9 of this act.

120       Sec. 9. (NEW) (a) This section does not apply to a donor.

121       (b) No health care provider may provide services for assisted  
122 reproduction involving donor eggs, sperm or embryos unless (1) the  
123 individual receiving the services has been given information about the  
124 implications of the use of assisted reproduction, both orally and in  
125 writing, sufficient to allow the individual to make an informed  
126 decision, (2) the individual has been offered the counseling by a mental  
127 health professional qualified to practice in the area of reproductive  
128 health, about the social and psychological implications of assisted  
129 reproduction on participants, and (3) the individual has signed a  
130 record consenting to the procedures to be employed.

131       (c) If an individual declines the counseling offered in subsection (b)  
132 of this section, the provider may not provide assisted reproduction

133 services unless the individual signs a record stating that the individual  
134 has been offered counseling and has elected not to receive it.

135 (d) If the use of assisted reproduction is by a married woman, the  
136 provisions of subsection (b) of this section also apply to her husband  
137 and the consent must be signed by both the woman and her husband.

138 (e) If an unmarried man provides his sperm to be used for assisted  
139 reproduction by an unmarried woman and both intend to be parents  
140 of a resulting child, the provisions of subsection (b) of this section shall  
141 also apply to the man and the consent must be signed by both the man  
142 and the woman.

143 (f) If the assisted reproduction services involve embryo creation or  
144 transfer, the record consent required in subsection (b) of this section  
145 shall also contain: (1) A description of the intended use of the embryos;  
146 (2) information regarding the number of embryos to be transferred and  
147 the risk of multiple births; (3) direction for the use and disposition of  
148 the embryos in the event of divorce, illness, death, or other change in  
149 circumstances designated by the parties; and (4) the time at which, and  
150 the conditions under which, embryos will be deemed abandoned and  
151 direction for disposal of the abandoned embryos.

152 Sec. 10. (NEW) No health care provider may facilitate gamete or  
153 embryo donation unless (1) the donor has been given information  
154 about the medical, psychological, and social implications of the use of  
155 assisted reproduction, both orally and in writing, sufficient to allow  
156 the donor to make an informed decision, and (2) the donor has signed  
157 a record consenting to the procedures to be employed.

158 Sec. 11. (NEW) (a) This section does not apply to the consent of a  
159 donor signed pursuant to section 10 of this act and to a gestational  
160 agreement as provided in section 13 of this act.

161 (b) An individual who signed a consent to assisted reproduction  
162 pursuant to section 9 of this act may revoke the consent in a record at

163 any time before transfer of eggs, sperm or embryos.

164 (c) If individuals who signed a consent pursuant to section 9 of this  
165 act are married and their marriage is dissolved before transfer of eggs,  
166 sperm or embryos, the former husband is not the father of the resulting  
167 child unless the former husband consented in a record that if assisted  
168 reproduction were to occur after a dissolution of the marriage, the  
169 former husband would be the father of the child.

170 (d) If a husband who signed a consent pursuant to section 9 of this  
171 act dies before transfer of eggs, sperm or embryos, the deceased  
172 husband is not the father of the resulting child unless the deceased  
173 husband consented in a record that if assisted reproduction were to  
174 occur after death, the deceased husband would be the father of the  
175 child. If an unmarried man who signed a consent pursuant to section 9  
176 of this act dies before transfer of eggs, sperm or embryos, the deceased  
177 man is not the father of the resulting child unless the deceased man  
178 consented in a record that if assisted reproduction were to occur after  
179 death, the deceased man would be the father of the child.

180 Sec. 12. (NEW) An agreement to pay consideration to an egg donor  
181 in exchange for her eggs shall not be enforceable unless it is  
182 reasonable, based on the donor's time, effort, risk and inconvenience.

183 Sec. 13. (NEW) (a) A prospective gestational carrier, her husband if  
184 she is married, and an intended parent may enter into a gestational  
185 agreement that provides that: (1) The prospective gestational carrier  
186 agrees to pregnancy by means of assisted reproduction by a health care  
187 provider; (2) the prospective gestational carrier and her husband, if she  
188 is married, relinquish all rights and duties as parents of a child born  
189 pursuant to a gestational agreement approved under section 14 of this  
190 act; and (3) each intended parent becomes the parent of the child.

191 (b) If the intended parents are married, both spouses must be parties

192 to the gestational agreement.

193 (c) The gestational agreement must be a record, signed by the  
194 parties.

195 (d) For purposes of sections 1 to 20, inclusive, of this act, a  
196 gestational agreement is not valid unless approved under section 14 of  
197 this act.

198 Sec. 14. (NEW) (a) The intended parent and the prospective  
199 gestational carrier may file a petition to approve a gestational  
200 agreement in the Probate Court in the probate district in which one of  
201 them resides. The gestational carrier's husband, if she is married, must  
202 join in the petition. A copy of the agreement must be attached to the  
203 petition.

204 (b) A petition to approve a gestational agreement may not be  
205 maintained unless either the gestational carrier or intended parent has  
206 continuously been a resident of this state for the preceding ninety  
207 days.

208 (c) On receipt of the petition, the court shall set a hearing within  
209 thirty days and give such notice as it may direct to the gestational  
210 carrier, her husband, the intended parents and such other interested  
211 parties as the court may direct. The court shall hold a hearing on the  
212 petition and, if the requirements of section 15 of this act are satisfied,  
213 may enter an order approving the gestational agreement and declaring  
214 that the intended parent will be the parent of a child born during the  
215 term of the agreement.

216 (d) The court shall close all proceedings held under this section. All  
217 records of the proceedings are confidential and subject to inspection  
218 only by the parties to the agreement and by the guardian of the child  
219 born to the gestational carrier. The court shall, on request of a child  
220 who is eighteen years of age or older born to a gestational carrier who  
221 is genetically related to the child, release to the child the identity of the

222 gestational carrier.

223 Sec. 15. (NEW) The court may not issue an order under section 14 of  
224 this act unless it finds that:

225 (1) The prospective gestational carrier, her husband, if she is  
226 married, and an intended parent have entered into a record agreement  
227 that provides that the gestational carrier agrees to conceive by means  
228 of assisted reproduction, that the gestational carrier and her husband,  
229 if she is married, relinquish all rights and duties as a parent of a child  
230 born during the term of the agreement, and that the intended parent  
231 becomes the parent of the resulting child;

232 (2) The agreement provides that the gestational carrier can attempt  
233 to achieve pregnancy for no more than one year from the date of  
234 approval of the agreement by the court;

235 (3) The residence requirement of section 14 of this act has been  
236 satisfied and the parties have submitted to jurisdiction of the court;

237 (4) The intended parent and the prospective gestational carrier are  
238 twenty-one years of age or older;

239 (5) If the intended parent is married, the spouse of the intended  
240 parent is a party to the gestational agreement as an intended parent;

241 (6) The gestational agreement does not limit the right of the  
242 gestational carrier to make decisions regarding her health or that of the  
243 embryo or fetus;

244 (7) The agreement under review by the court is the entire agreement  
245 between the parties;

246 (8) The parties understand that they have a right to separate legal  
247 counsel, and, if a party proceeds without legal counsel, that party has  
248 knowingly waived the right to counsel;

249 (9) The parties understand that it is recommended that the parties

250 have received mental health counseling, by a mental health  
251 professional qualified to practice in the area of reproductive medicine,  
252 about the social and psychological implications of being a gestational  
253 carrier and an intended parent and, if a party has entered the  
254 agreement without the benefit of such counseling, the party has  
255 knowingly declined counseling;

256 (10) Adequate provision has been made for all reasonable health  
257 care expense associated with the gestational agreement until the birth  
258 of the child, including responsibility for those expenses if the  
259 agreement is terminated;

260 (11) Consideration, if any, paid to the prospective gestational carrier  
261 is reasonable;

262 (12) All parties have voluntarily entered into the agreement and  
263 understand its terms; and

264 (13) The gestational carrier, if she will be genetically related to the  
265 child, is aware that on reaching eighteen years of age, such child may  
266 learn her identity from the court.

267 Sec. 16. (NEW) (a) A gestational agreement that is the basis for an  
268 order under sections 1 to 20, inclusive, of this act may provide for  
269 payment of reasonable consideration, based only on the gestational  
270 carrier's time, effort, risk and inconvenience.

271 (b) After the entry of an order under section 14 of this act, marriage  
272 of the gestational carrier does not affect the effectiveness of the  
273 agreement, and her husband's consent to the gestational agreement is  
274 not required, nor is her husband the father of the resulting child.

275 (c) If, under the agreement, the intended parents are required to pay  
276 the gestational carrier's legal fees, counsel for the gestational carrier  
277 shall represent the interests of the gestational carrier only.

278 (d) A provision in a gestational agreement approved pursuant to

279 section 14 of this act contrary to any provision in sections 1 to 13,  
280 inclusive, and sections 15 to 20, inclusive, of this act is unenforceable.

281 Sec. 17. (NEW) Subject to the jurisdictional standards of section 46b-  
282 115k of the general statutes of the Uniform Child Custody Jurisdiction  
283 and Enforcement Act, the court conducting a proceeding under this  
284 part has exclusive, continuing jurisdiction of all matters arising out of  
285 the gestational agreement until a child born to the gestational mother  
286 during the period governed by the agreement attains the age of six  
287 months.

288 Sec. 18. (NEW) (a) After entry of an order under section 14 of this  
289 act, but before the prospective gestational carrier becomes pregnant by  
290 means of assisted reproduction, the prospective gestational carrier, her  
291 husband or the intended parent may seek to terminate the agreement  
292 by filing notice of the termination with the Probate Court and by  
293 giving written notice of termination to all other parties and to any  
294 health care provider who is providing assisted reproduction services.  
295 The court, for good cause shown, such as death or divorce of an  
296 intended parent, may also, before pregnancy, give notice of intent to  
297 terminate the agreement.

298 (b) On receipt of the notice and on finding that a pregnancy has not  
299 occurred by means of assisted reproduction, the court shall vacate the  
300 order entered under sections 13 to 20, inclusive, of this act.

301 (c) Neither a prospective gestational carrier nor her husband, if any,  
302 is liable to the intended parent for terminating an agreement pursuant  
303 to this section.

304 (d) If a prospective gestational carrier terminates the agreement  
305 under this section, any egg retrieved from her or embryo created  
306 belongs to the intended parent. If the intended parent terminates the  
307 agreement under this section, any egg retrieved from the gestational  
308 carrier or embryo created using an egg retrieved from the gestational  
309 carrier belongs to the gestational carrier.

310 Sec. 19. (NEW) (a) On birth of a child to a gestational carrier within  
311 three hundred days of the last procedure using assisted reproduction  
312 pursuant to a gestational agreement, an individual who is the intended  
313 parent of the child is, in all respects, the parent of the child.

314 (b) On birth of the child to a gestational carrier, the intended parent  
315 or the gestational carrier shall immediately furnish to the facility in  
316 which the birth takes place or to such other person required to prepare  
317 and file a birth certificate pursuant to section 7-48 of the general  
318 statutes a certified copy of the order of the court issued under section  
319 14 of this act. A birth certificate shall be filed in accordance with the  
320 provisions of section 7-48 of the general statutes. A certified copy of  
321 the order of the court issued under section 14 of this act shall be sent to  
322 the Department of Public Health by the facility or person required to  
323 prepare and file a birth certificate under section 7-48 of the general  
324 statutes.

325 (c) On application, the Probate Court may issue an order  
326 supplemental to the order issued pursuant to section 14 of this act. As  
327 necessary, the court, in its supplemental order, may:

328 (1) Confirm that the intended parent is the parent of the child;

329 (2) Order that the child be surrendered to the intended parent;

330 (3) If no birth certificate has been prepared and filed pursuant to  
331 section 7-48, of the general statutes direct that a birth certificate be  
332 prepared and filed by the appropriate authority naming the  
333 appropriate individual as parent of the child;

334 (4) If a birth certificate has already been prepared and filed pursuant  
335 to section 7-48 of the general statutes, direct the Department of Public  
336 Health to issue a new birth certificate removing the names of any  
337 inappropriate individual, adding the names of any appropriate  
338 individual, and, if necessary, changing the name of the child;

339 (5) If the birth is not consistent with the gestational agreement

340 approved under section 14 of this act, determine the parentage of the  
341 child;

342 (6) Make any other order necessary to carry out the purposes of  
343 sections 1 to 20, inclusive, of this act with respect to a gestational  
344 agreement approved under section 14 of this act; and

345 (7) Order genetic testing to determine the parentage of the child if a  
346 man, not a donor and not a party to the gestational agreement,  
347 requests genetic testing. The request for testing must be made no later  
348 than six months after the birth of the child and must be supported by a  
349 sworn statement alleging that the man requesting testing is the genetic  
350 father of the child and stating facts establishing a reasonable  
351 probability of the requisite sexual contact between the man and the  
352 gestational carrier. If it is determined that the man is the genetic father  
353 of the child as the result of his sexual intercourse with the gestational  
354 carrier, the court shall make any necessary order to establish  
355 parentage.

356 Sec. 20. (NEW) (a) A gestational agreement not approved by a court  
357 pursuant to section 14 of this act is not effective and enforceable under  
358 sections 1 to 20, inclusive, of this act. This act does not affect the  
359 validity of a nonapproved agreement, entered into either before or  
360 after the effective date of sections 1 to 20, inclusive, of this act, if the  
361 agreement is valid under other law of this state.

362 (b) If a birth results under an agreement not approved by a court  
363 under sections 1 to 20, inclusive, of this act, the parent-child  
364 relationship is determined under the provisions of chapter 815y of the  
365 general statutes.

366 (c) An individual who is a party to a nonapproved gestational  
367 agreement as an intended parent may be held liable for support of the  
368 resulting child, even if the agreement is otherwise unenforceable. The  
369 liability under this subsection includes assessing filing fees, reasonable  
370 attorney's fees, fees for genetic testing, other costs and necessary travel,

371 and other reasonable expenses incurred to adjudicate parentage.

372 (d) This section applies to a nonapproved gestational agreement  
373 regardless of whether the agreement was submitted to the court for  
374 approval.

375 Sec. 21. Subsection (a) of section 53-21 of the general statutes is  
376 repealed and the following is substituted in lieu thereof:

377 (a) Any person who (1) wilfully or unlawfully causes or permits any  
378 child under the age of sixteen years to be placed in such a situation  
379 that the life or limb of such child is endangered, the health of such  
380 child is likely to be injured or the morals of such child are likely to be  
381 impaired, or does any act likely to impair the health or morals of any  
382 such child, or (2) has contact with the intimate parts, as defined in  
383 section 53a-65, of a child under the age of sixteen years or subjects a  
384 child under sixteen years of age to contact with the intimate parts of  
385 such person, in a sexual and indecent manner likely to impair the  
386 health or morals of such child, or (3) permanently transfers the legal or  
387 physical custody of a child under the age of sixteen years to another  
388 person for money or other valuable consideration or acquires or  
389 receives the legal or physical custody of a child under the age of  
390 sixteen years from another person upon payment of money or other  
391 valuable consideration to such other person or a third person, except in  
392 connection with an adoption proceeding that complies with the  
393 provisions of chapter 803 and except in connection with a gestational  
394 agreement approved under the provisions of this act, shall be guilty of  
395 a class C felony.

396 Sec. 22. Section 45a-186 of the general statutes is repealed and the  
397 following is substituted in lieu thereof:

398 (a) Any person aggrieved by any order, denial or decree of a court  
399 of probate in any matter, unless otherwise specially provided by law,  
400 may appeal therefrom to the Superior Court in accordance with  
401 subsection (b) of this section. Except in the case of an appeal by the

402 state, such person shall give security for costs in the amount of one  
403 hundred fifty dollars, which may be paid to the clerk, or a  
404 recognizance with surety annexed to the appeal and taken before the  
405 clerk or a commissioner of the Superior Court or a bond substantially  
406 in accordance with the bond provided for appeals to the Supreme  
407 Court. Appeals from any decision rendered in any case after a record is  
408 made under sections 51-72 and 51-73 shall be on the record and shall  
409 not be a trial de novo.

410 (b) Any such appeal shall be filed in the superior court for the  
411 judicial district in which such court of probate is located except that (1)  
412 any appeal under subsection (b) of section 12-359 or subsection (b) of  
413 section 12-367 or subsection (b) of section 12-395, shall be filed in the  
414 judicial district of Hartford and (2) any appeal in a matter concerning  
415 removal of a parent as guardian, termination of parental rights,  
416 gestational agreements under sections 1 to 20, inclusive, of this act, or  
417 adoption shall be filed in the superior court for juvenile matters having  
418 jurisdiction over matters arising in such probate district.

419 Sec. 23. (NEW) The provisions of sections 45a-771 to 45a-779,  
420 inclusive, of the general statutes shall apply to children born before the  
421 effective date of this act.

***Statement of Purpose:***

To provide regulation of (1) assisted reproduction including artificial insemination, transfer of gametes or embryos and in-vitro fertilization, and (2) gestational agreements.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*