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## **OLR Bill Analysis**

**sHB 6631 (as amended by House "A")\***

***AN ACT CONCERNING THE ISSUANCE OF A REPLACEMENT BIRTH CERTIFICATE PURSUANT TO A GESTATIONAL AGREEMENT.***

**SUMMARY:**

This bill eliminates the requirement for the birth mother's name on a replacement birth certificate that the Department of Public Health (DPH) creates when a birth arises out of a gestational agreement. It instead requires DPH to name the intended parents as the child's parents on the replacement certificate. By law, for births arising out of gestational agreements, DPH must seal the original birth certificate and registrars of vital statistics must provide a replacement copy to an eligible party who requests it.

The bill also changes the required timing of the creation of replacement birth certificates for births that are subject to gestational agreements. Current law requires DPH to create replacement certificates according to a court order within 45 days after receiving the order or the child's birth, whichever is later. Under the bill, if before the child's birth, DPH receives a certified copy of a court order that approves a gestational agreement and issues an order of parentage under it, the department must create the replacement certificate immediately upon the filing of the original certificate. If DPH receives a certified copy of such an order after the child's birth, it must create the replacement certificate immediately upon receiving the certified copy of the order. In either case, DPH must prepare the replacement certificate in accordance with the court order.

The bill defines "gestational agreement" and "intended parent." The definitions apply to the bill as well as throughout the vital statistics statutes.

Under the bill, a “gestational agreement” is a written agreement for assisted reproduction between a woman who agrees to carry a child to birth and the intended parent or parents. The woman carrying the child to birth must not have contributed genetic material to the child. The agreement must (1) name the parties to it and indicate their obligations under it; (2) be signed by the parties and their spouses, if any; (3) be witnessed by at least two disinterested adults; and (4) be acknowledged as prescribed by law.

The bill defines an “intended parent” as a party to a gestational agreement who agrees under it to be the parent of a child born to a woman through assisted reproduction. This applies regardless of whether there is a genetic relationship between the intended parent and child.

The bill also makes minor and technical changes.

\*House Amendment “A” strikes the underlying bill. The amendment (1) deletes a provision defining “birth mother” for purposes of the certificate as the woman who carries a child to birth under a gestational agreement, (2) specifies different timing requirements for the creation of the replacement certificate, based on whether DPH receives the court order before or after the child’s birth, (3) adds the definition of intended parent, and (4) adds to the definition of gestational agreement the condition that the woman bearing the child contributed no genetic material to the child.

EFFECTIVE DATE: October 1, 2011

## **BACKGROUND**

### ***Related Case***

*Raftopol v. Ramey* (299 Conn. 681 (2011)) involved two plaintiffs (the intended parents) who entered a written gestational agreement with a gestational carrier. Prior to the birth of two children, the plaintiffs brought a declaratory judgment action requesting that the court order DPH to issue a replacement birth certificate reflecting the plaintiffs, and not the carrier, as the children’s parents. After the Superior Court

found the gestational agreement valid and ordered DPH to issue a replacement birth certificate, DPH appealed.

In *Raftopol*, the Connecticut Supreme Court concluded that CGS § 7-48a (the statute that this bill amends) permits a non-biological intended parent who is not the child’s adoptive parent to become a legal parent of that child through a valid gestational agreement. The court ruled that a court order under this statute entitles the intended parents to be named as parents on the replacement birth certificate, regardless of their biological relationship to the children.

The court noted certain provisions of the statute that it found ambiguous. According to the court, CGS § 7-48a does not (1) define the terms “birth mother” or “gestational agreement”; (2) address the nature and scope of the court order requiring DPH to create a replacement birth certificate; or (3) describe who may qualify and how, as a parent on a replacement certificate.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/12/2011)

Public Health Committee

Joint Favorable

Yea 26 Nay 0 (05/11/2011)