

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-153—sHB 6631
Judiciary Committee
Public Health Committee

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

SUMMARY: This act eliminates the requirement that the birth mother's name appear 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 parent or parents as the child's parent or 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 act also changes the required timing of the creation of replacement birth certificates for births subject to gestational agreements. Prior law required DPH to create a replacement certificate according to a court order within 45 days after receiving the order or the child's birth, whichever is later. Under the act, 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 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 according to the court order.

The act defines "gestational agreement" and "intended parent." The definitions apply to the act as well as throughout other specified statutes concerning vital statistics and vital records.

Under the act, 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 act 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 act also makes minor and technical changes.
EFFECTIVE DATE: October 1, 2011

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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 (one of the statutes PA 11-153 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 did 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.

OLR Tracking: JO:KM:PF:ro