A bill to be entitled

An act relating to surrogacy and assisted reproduction; amending s. 63.213, F.S.; providing that a preplanned adoption arrangement may not authorize certain actions under certain circumstances; revising required and prohibited preplanned adoption agreement terms; requiring certain parties to have independent legal representation by an attorney who meets certain requirements; requiring a clerk of the court to request and obtain certain background investigations of specified parties under certain circumstances; prohibiting the court from approving a proposed adoption of a child under certain circumstances; providing that the biological mother of a child retains all parental rights to the child under certain circumstances; defining the term "disqualified person"; revising and deleting definitions; conforming provisions to changes made by the act; creating s. 383.61, F.S.; defining terms; requiring the Agency for Health Care Administration, in consultation with the Department of Health, to adopt certain rules for donor banks and fertility clinics by a specified date; prohibiting a donor bank or fertility clinic from operating without a license; providing an exception; providing that licenses are valid for a specified

timeframe unless suspended or revoked for cause; requiring donor banks, fertility clinics, and certain health care practitioners to develop certain written best practice policies by a specified date; requiring such donor banks, fertility clinics, and health care practitioners to submit such policies to specified entities for annual review; requiring such donor banks, fertility clinics, and health care practitioners to clearly label specified material and maintain all records for a specified timeframe; requiring the agency to perform certain annual inspections; providing administrative penalties for donor banks and fertility clinics that violate certain provisions; authorizing the agency to refer certain violations to the department; requiring fertility clinics to obtain express and informed consent from all participants; requiring fertility clinics to provide a certain written document to participants; specifying the manner in which a participant gives express and informed consent; requiring donor banks and fertility clinics to immediately cease using certain reproductive material under certain circumstances; creating s. 402.89, F.S.; defining terms; requiring surrogacy agencies to require all participants to undergo certain mental health

evaluations; requiring that such evaluations be repeated at specified intervals under certain circumstances; requiring surrogacy agencies to require donors, gestational surrogates, and surrogates to undergo certain medical evaluations; specifying requirements relating to such evaluations; requiring surrogacy agencies to obtain level 2 security background investigations for participants from the Department of Children and Families through the Care Provider Background Screening Clearinghouse; requiring that such investigations be updated at specified intervals under certain circumstances; specifying requirements relating to such security background investigations; requiring a surrogacy agency to terminate any existing contract involving an individual found to be a disqualified person and take certain additional actions; requiring that a written contract be made between a surrogacy agency and a commissioning couple; specifying requirements for such surrogacy contracts; requiring surrogacy agencies to keep and maintain certain funds in separate accounts and maintain a certain mechanism for a certain purpose; requiring surrogacy agencies to establish escrow accounts for a certain purpose; specifying requirements for such escrow accounts and escrow

agents; specifying requirements for certain contracts entered into by surrogacy agencies and participants; requiring the Department of Children and Families to adopt certain rules by a specified date; requiring surrogacy agencies to apply for and maintain certification issued by the department; providing that such certification is valid for a specified timeframe unless suspended or revoked for cause; requiring the department to conduct certain inspections; authorizing the department to impose corrective action plans or administrative fines upon surrogacy agencies or suspend or revoke surrogacy agency certification under certain circumstances; requiring the department to maintain a certain list of certified surrogacy agencies; reordering and amending s. 742.13, F.S.; defining the terms "disqualified person" and "surrogate"; revising definitions; amending s. 742.15, F.S.; requiring that a contract be made between a commissioning couple and a gestational surrogate or surrogate before engaging in gestational surrogacy or surrogacy; providing the circumstances under which such contract is binding and enforceable; requiring that a surrogacy contract include certain provisions; creating s. 742.155, F.S.; authorizing the commissioning couple and prospective gestational

surrogate or surrogate to petition a court to validate a surrogacy contract under certain circumstances; authorizing the court to validate a surrogacy contract under certain circumstances; providing the standard of review for a court's determination of whether to validate a surrogacy contract; amending s. 742.16, F.S.; requiring a commissioning couple to petition a court in a certain circuit for an expedited affirmation of parental status within a certain timeframe after the birth of a child delivered by a gestational surrogate or surrogate; requiring the clerk of the court to request and obtain certain security background investigations of specified parties under certain circumstances; authorizing the court to order the deletion of certain names from a notice of hearing and from the copy of the petition attached thereto under certain circumstances; requiring the commissioning couple to give certain notice of hearing to the surrogate; revising the circumstances under which the court is required to enter an order stating that the commissioning couple are the legal parents of the child; requiring that the gestational surrogate or surrogate be deemed the natural mother of the child and have the right to certain support under certain circumstances;

prohibiting the granting of time-sharing and parental responsibility to the commissioning couple under certain circumstances; providing that the consent of the commissioning couple is not required for the adoption of the child under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 63.213, Florida Statutes, is amended to read:

63.213 Preplanned adoption agreement.—

(1) Individuals may enter into a preplanned adoption arrangement as specified in this section, but the ~~such~~ arrangement may not do any of the following ~~in any way~~:

(a) Effect final transfer of custody of a child or final adoption of a child without review and approval of the court and without compliance with other applicable provisions of law.

(b) Constitute consent of a biological mother to place her biological child for adoption until 48 hours after the birth of the child and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 48-hour period after the birth of the child but chose not to rescind her ~~such~~ consent. ~~The volunteer mother's right to rescind her consent in a~~

~~preplanned adoption applies only when the child is genetically related to her.~~

(c) Authorize the adoption of a child by an intended parent who is a disqualified person.

(d) Authorize the adoption of a child conceived through a gestational surrogacy or surrogacy arrangement that is governed by s. 742.15.

(2) A preplanned adoption agreement must include, but need not be limited to, all of the following terms:

(a) That the biological ~~volunteer~~ mother is pregnant and agrees to ~~become pregnant by the fertility technique specified in the agreement, to~~ bear the child~~,~~ and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement~~, subject to a right of rescission by the volunteer mother any time within 48 hours after the birth of the child, if the volunteer mother is genetically related to the child~~.

(b) That the biological ~~volunteer~~ mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

(c) That the biological ~~volunteer~~ mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother if the intended father and intended mother

terminate the agreement before final transfer of custody is completed~~, if a court determines that a parent clearly specified by the preplanned adoption agreement to be the biological parent is not the biological parent,~~ or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

(d) ~~That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father if the agreement is terminated for any reason by any party before final transfer of custody is completed or if the planned adoption is not approved by the court pursuant to the Florida Adoption Act.~~

~~(e)~~ That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement if the biological ~~volunteer~~ mother terminates the agreement or ~~if the volunteer mother~~ rescinds her consent to place her child for adoption within 48 hours after the birth of the child~~, if the volunteer mother is genetically related to the child~~.

(e)~~(f)~~ That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological, or psychiatric expenses of the biological ~~volunteer~~ mother related to the preplanned adoption arrangement and may agree to pay the reasonable living expenses and wages lost due to the pregnancy and birth of the biological ~~volunteer~~ mother and reasonable

compensation for inconvenience, discomfort, and medical risk. No other compensation, whether in cash or in kind, may ~~shall~~ be made pursuant to a preplanned adoption arrangement.

(f) ~~(g)~~ That the intended father and intended mother agree to accept custody of and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

~~(h) That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.~~

(g) ~~(i)~~ That the agreement may be terminated at any time by any of the parties.

(h) That the parties understand that the agreement is void and that a court may not approve the proposed adoption if any intended parent is a disqualified person as defined in this section.

(3) A preplanned adoption agreement may ~~shall~~ not contain any provision:

(a) To reduce any amount paid to the biological ~~volunteer~~ mother if the child is stillborn or is born alive but impaired, or to provide for the payment of a supplement or bonus for any reason.

(b) Requiring the termination of the biological ~~volunteer~~ mother's pregnancy.

(4) A pregnant female and, if married, her spouse and the intended parents must have independent legal representation by an attorney who is a member in good standing of The Florida Bar before entering into and throughout the duration of the preplanned adoption agreement regarding the terms and potential legal consequences of the agreement. Each attorney must be identified in the preplanned adoption agreement. A single attorney for the biological mother and her spouse, if married, and a single attorney for the intended parents are sufficient to meet this requirement ~~An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement~~.

(5) Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding biological ~~volunteer~~ mothers or matching a biological ~~volunteer~~ mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys, and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, or counseling.

(6)(a) After the intended parents petition a court for the

approval of the adoption of a child who is the subject of a preplanned adoption agreement, the clerk of the court shall request and obtain a level 2 security background investigation as described in s. 435.04 of each of the intended parents from the Department of Law Enforcement and provide the results to the court.

(b) The court shall review the results of the security background investigation and may not approve a proposed adoption of a child by an intended parent who is a disqualified person.

(7) If a proposed adoption is denied because an intended parent is a disqualified person, the biological mother retains all parental rights to the child.

(8) As used in this section, the term:

(a) "Disqualified person" means a person who fails to meet the level 2 screening standards under s. 435.04 ~~"Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins~~.

~~(b) "Child" means the child or children conceived by means of a fertility technique that is part of a preplanned adoption arrangement.~~

~~(c) "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.~~

(b)~~(d)~~ "Intended father" means a male who~~, as evidenced by~~

~~a preplanned adoption agreement,~~ intends to assert the parental rights and responsibilities for a child who is the subject of a preplanned adoption agreement ~~conceived through a fertility technique, regardless of whether the child is biologically related to the male~~.

(c) ~~(e)~~ "Intended mother" means a female who~~, as evidenced by a preplanned adoption agreement,~~ intends to assert the parental rights and responsibilities for a child who is the subject of a preplanned adoption agreement ~~conceived through a fertility technique, regardless of whether the child is biologically related to the female~~.

(d) ~~(f)~~ "Party" means the intended father, the intended mother, the biological ~~volunteer~~ mother, or the biological ~~volunteer~~ mother's husband, if she has a husband.

(e) ~~(g)~~ "Preplanned adoption agreement" means a written agreement among the parties which ~~that~~ specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this section.

(f) ~~(h)~~ "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the biological ~~volunteer~~ mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this section, for the intended father and intended mother to assert full parental rights and

responsibilities to the child if consent to adoption is not rescinded after birth by a biological ~~volunteer~~ mother ~~who is genetically related to the child~~, and for the biological ~~volunteer~~ mother to terminate, subject to any right of rescission, all her parental rights and responsibilities to the child in favor of the intended father and intended mother.

~~(i) "Volunteer mother" means a female at least 18 years of age who voluntarily agrees, subject to a right of rescission if it is her biological child, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate her parental rights and responsibilities to the child in favor of the intended father and intended mother.~~

Section 2. Section 383.61, Florida Statutes, is created to read:

383.61 Assisted reproduction facilities.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Assisted reproductive technology" means procreative procedures which involve the laboratory handling of human eggs, sperm, or preembryos, including, but not limited to, in vitro fertilization embryo transfer, gamete intrafallopian transfer, pronuclear stage transfer, tubal embryo transfer, and zygote intrafallopian transfer.

(c) "Commissioning couple" means the intended father and

mother of a child who will be conceived by means of assisted reproductive technology using the eggs or sperm of at least one of the intended parents.

(d) "Department" means the Department of Health.

(e) "Disqualified person" means a person who fails to meet the level 2 screening standards under s. 435.04.

(f) "Donor" means a person who donates reproductive material, regardless of whether the donation is for personal use or for compensation. The term does not include an intended mother or intended father who provides eggs or sperm, respectively, to be used for assisted reproduction.

(g) "Donor bank" means any facility that collects reproductive material from donors for use by a fertility clinic.

(h) "Egg" means the unfertilized female reproductive cell.

(i) "Fertility clinic" means a facility in which reproductive materials are subject to assisted reproductive technology for the purpose of implantation.

(j) "Health care practitioner" has the same meaning as in s. 456.001.

(k) "Preembryo" means the product of fertilization of an egg by a sperm until the appearance of the embryonic axis.

(l) "Recipient" means a person who receives, through implantation, reproductive material from a donor.

(m) "Reproductive material" means any human egg, sperm, or preembryo.

(n) "Sperm" means the male reproductive cell.

(o) "Surrogacy agency" means a person who is certified pursuant to s. 402.89 and is in the business of matching, supervising, or coordinating intended parents, gestational surrogates, and surrogates as defined in s. 402.89; providing case management, screening, or counseling services to intended parents, gestational surrogates, or surrogates; or referring intended parents, gestational surrogates, and surrogates to third-party reproductive services.

(p) "Third-party reproductive services" means services offered by a donor bank or fertility clinic licensed under this section related to the use of eggs, sperm, or preembryos that have been donated by a person to enable a couple to become parents. The term includes services related to gestational surrogacy and surrogacy arrangements.

(2) RULES.—By December 31, 2026, the agency, in consultation with the department, shall adopt rules establishing all of the following for donor banks and fertility clinics:

(a) Minimum laboratory standards for embryology, cryopreservation, and specimen handling.

(b) Minimum training requirements for embryologists and laboratory staff.

(c) Licensure application and renewal procedures and documentation requirements.

(d) Sanitation and infection control requirements.

(e) Standards for storing, monitoring, and securing reproductive material.

(f) The format and required content of patient disclosures.

(g) Incident reporting procedures and thresholds.

(3) LICENSURE.—A donor bank or fertility clinic may not operate without a license issued by the agency under this section. Donor banks and fertility clinics in operation as of the date that rules initially adopted under this section become effective shall have 6 months from that date to become licensed. A license is valid for 2 years unless suspended or revoked for cause.

(4) BEST PRACTICE POLICIES.—

(a) By January 1, 2027, each donor bank, fertility clinic, and health care practitioner who provides assisted reproductive technology in this state shall develop written best practice policies consistent with 42 U.S.C. s. 263a(f).

(b) Such best practice policies must be submitted to the appropriate licensing agency or department annually for review.

(c) All reproductive material stored by a donor bank, fertility clinic, or health care practitioner must be clearly labeled.

(d) A donor bank, fertility clinic, or health care practitioner shall maintain all records for at least 30 years.

(5) INSPECTIONS.—The agency shall perform annual

inspections of donor banks and fertility clinics.

(6) PENALTIES.—A donor bank or fertility clinic in violation of subsection (3) or subsection (4) is subject to the penalties provided in s. 400.995. The agency may refer violations involving health care practitioners to the department for disciplinary action under chapter 456.

(7) DISCLOSURE REQUIREMENTS.—A fertility clinic shall obtain express and informed consent from all participants regarding the proposed treatment, procedure, or process related to services that will be provided by the clinic.

(a) A fertility clinic shall provide to a participant a written document that is in plain language and includes, at a minimum, all of the following:

1. A description of the known and potential risks, consequences, and benefits of assisted reproductive technology.

2. A statement that there may be foreseen or unforeseen legal consequences and that it is advisable to seek independent legal counsel.

3. A description of applicable confidentiality protections and a statement that such protections apply to the extent allowed by law.

4. A statement that a participant has access to all of his or her medical records to the extent allowed by law and may request copies of such records from the fertility clinic. The fertility clinic may charge reasonable fees for copies of such

records as authorized by law.

5. If applicable, a disclosure that a commissioning couple has the right to access a summary of medical and psychological information about donors and gestational surrogates.

6. The policy of the fertility clinic, if applicable, regarding the number of embryos transferred and any limitation on the number of embryos transferred, as well as the existence of national guidelines as published by the American Society for Reproductive Medicine and the Society for Assisted Reproductive Technology.

7. Information generally explaining and clarifying parental rights of all participants.

8. Any other disclosures required by state or federal law.

9. A statement that all disclosures have been made pursuant to this subsection.

(b) A participant gives express and informed consent by signing the written document required under paragraph (a). In order for the express and informed consent to be valid, the document must meet all of the following requirements:

1. Be dated and signed by the fertility clinic and the participant.

2. Specify the length of time that the consent remains valid.

3. Advise the participant signing the document of the right to receive a copy of the document.

(8) NOTICE OF DISQUALIFIED PERSON.—If a donor bank or fertility clinic receives notice from a surrogacy agency that a donor, a participant, or an intended parent is a disqualified person, the donor bank or fertility clinic must immediately cease using any reproductive material retained by the donor bank or fertility clinic pertaining to that individual.

Section 3. Section 402.89, Florida Statutes, is created to read:

402.89 Surrogacy agencies.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Commissioning couple" means the intended father and mother of a child who will be conceived by means of assisted reproductive technology as defined in s. 383.61 using the eggs or sperm of at least one of the intended parents.

(b) "Department" means the Department of Children and Families.

(c) "Disqualified person" means a person who fails to meet the level 2 screening standards under s. 435.04.

(d) "Gestational surrogate" means a woman who contracts to become pregnant by means of assisted reproductive technology as defined in s. 383.61 without the use of an egg from her body and with the use of an egg or sperm from the commissioning couple.

(e) "Participant" means an individual who provides a biological or genetic component of assisted reproduction or a commissioning couple.

(f) "Surrogacy agency" means a person who is in the business of matching, supervising, or coordinating intended parents and surrogates; providing case management, screening, or counseling services to commissioning couples or surrogates; or referring commissioning couples and surrogates to third-party reproductive services.

(g) "Surrogacy contract" means a written agreement between the commissioning couple and the gestational surrogate or surrogate.

(h) "Surrogate" means a woman who contracts to become pregnant by means of assisted reproductive technology as defined in s. 383.61 with the use of an egg from her body.

(i) "Third-party reproductive services" means services offered by a donor bank or fertility clinic licensed under s. 383.61 related to the use of eggs, sperm, or preembryos that have been donated by a person to enable a couple to become parents. The term includes services related to gestational surrogacy and surrogacy arrangements.

(2) GENERAL REQUIREMENTS.—A surrogacy agency shall do all of the following:

(a) Require all participants to undergo a mental health evaluation by a mental health professional licensed under chapter 490 or chapter 491, and to undergo a subsequent evaluation every 2 years thereafter as long as the participant remains in the surrogacy agency's database or continues to

contract for services with the surrogacy agency. The surrogacy agency shall request from the mental health professional performing the evaluation a written statement that the mental health professional has met with and cleared the participant for continued participation in the surrogacy process. The surrogacy agency shall retain a copy of the written statement for each participant. The surrogacy agency shall require all participants to sign a release authorizing the surrogacy agency to obtain the results of the mental health evaluation.

(b) Require all donors, gestational surrogates, and surrogates to undergo a medical evaluation by a physician licensed under chapter 458 or chapter 459. The surrogacy agency shall request from the physician performing the evaluation a written statement that the physician has met with and cleared the donor, gestational surrogate, or surrogate for continued participation in the surrogacy process. The surrogacy agency shall retain a copy of the written statement for each donor, gestational surrogate, or surrogate. The surrogacy agency shall require all donors, gestational surrogates, and surrogates to sign a release authorizing the surrogacy agency to obtain the results of the medical evaluation.

(c) Obtain a level 2 security background investigation consistent with s. 435.04 from the department through the Care Provider Background Screening Clearinghouse under s. 435.12, and obtain an updated security background investigation every 5

years thereafter as long as the participant remains in the surrogacy agency's database or is still contracting for services with the surrogacy agency.

1. For a donor or surrogate, the surrogacy agency shall obtain the security background investigation before listing the donor or surrogate in the surrogacy agency's database of potential donors or surrogates.

2. For a commissioning couple, the surrogacy agency shall obtain the security background investigation before entering into a contract with the commissioning couple to provide database or matching services or referrals for third-party reproductive services.

3. If the security background investigation finds that an individual is a disqualified person, the surrogacy agency must terminate any existing contract involving the individual, remove the individual from the surrogacy agency's database, and notify the donor bank or fertility clinic of the individual's status as a disqualified person.

(d) Require a written contract as provided in subsection (4) between the commissioning couple and the surrogacy agency.

(e) Require that all surrogacy contracts pursuant to s. 742.15 between the commissioning couple and the gestational surrogate or surrogate be in writing and require the commissioning couple and gestational surrogate or surrogate to undergo a legal consultation with an attorney who is a member in

good standing of The Florida Bar regarding the terms and potential legal consequences of the surrogacy contract.

(f) Keep and maintain all funds that are to be used for the compensation of a donor, gestational surrogate, or surrogate in an account that is separate and apart from the surrogacy agency's business accounts as specified in subsection (3).

(3) SECURITY REQUIREMENTS.—A surrogacy agency that requires or receives payment from a participant shall establish and maintain a mechanism for ensuring that those funds are properly maintained.

(a) The surrogacy agency shall establish an escrow account with an independent escrow agent and deposit into the account all payments received by the surrogacy agency from a commissioning couple. The surrogacy agency is not required to deposit into the escrow account payments received from a commissioning couple which relate to the compensation and operation of the agency.

(b) The surrogacy agency shall establish the escrow account in a bank, savings and loan association, or trust company incorporated under the laws of this state or with an attorney who is a member in good standing of The Florida Bar.

(c) The escrow agent shall disburse funds from the escrow account only upon receipt of an affidavit from the surrogacy agency specifying the purpose for which the disbursement is requested. The escrow agent is entitled to rely upon the

affidavit of the surrogacy agency and has no obligation to independently ascertain the propriety of the requested disbursement so long as the escrow agent has no actual knowledge that the affidavit is false in any respect. The escrow agent shall retain all affidavits received pursuant to this paragraph for 5 years.

(d) The escrow agent shall maintain the account in such a manner that it is under the direct supervision and control of the escrow agent. The escrow agent has a fiduciary duty to each participant to maintain the escrow account in accordance with good accounting principles and to release funds from escrow only in accordance with this subsection. If the escrow agent receives conflicting demands for the escrowed funds, the escrow agent may not disburse any funds and must immediately notify the surrogacy agency and the affected participant of the dispute.

(e) Failure of a surrogacy agency to place funds in an escrow account within 10 days after receipt of the funds is prima facie evidence of a violation of this subsection.

(4) CONTRACT REQUIREMENTS.—A contract entered into by a surrogacy agency and a participant to provide database or matching services or referrals for third-party reproductive services must be in writing. The written contract must contain all provisions, requirements, and prohibitions required by this subsection before it is signed by the participant. The surrogacy agency shall provide a copy of the signed contract to the

participant at the time the participant signs the contract and shall provide another copy to the donor bank or fertility clinic licensed under s. 383.61. A contract to provide database or matching services or referrals for third-party reproductive services must include all of the following:

(a) The participant's total payment obligation for services to be received pursuant to the contract.

(b) The agreed-upon payment plan, if the contract calls for payment in installments.

(c) All contracted services, set forth in specific terms.

(d) Prescribed in bold-faced type and under conspicuous caption, all cancellation provisions of the contract.

(e) The length of time that the contract remains valid and the circumstances under which the contract is terminated.

(5) RULES.—By December 31, 2026, the department shall adopt rules to implement this section and establish minimum standards for the certification and operation of surrogacy agencies. The rules must include, at a minimum, all of the following:

(a) Requirements for screening of participants.

(b) Requirements for background screening of surrogacy agency personnel.

(c) Financial responsibility standards.

(d) Confidentiality and recordkeeping standards, including retention of records.

(e) Training requirements for surrogacy agency staff on surrogacy ethics, legal risks, counseling, and conflict management.

(f) Procedures for complaint handling, corrective action plans, and sanctions.

(6) CERTIFICATION.—

(a) A surrogacy agency operating in this state must apply for and maintain certification issued by the department. Surrogacy agencies in operation as of the date that rules initially adopted under this section become effective shall have 6 months from that date to become certified. A certification is valid for 2 years, unless suspended or revoked for cause. The department shall inspect a surrogacy agency applying for certification before initial certification, and at least annually thereafter, to verify compliance with certification standards.

(b) If a surrogacy agency fails to comply with this section or the rules adopted under this section, the department may take administrative action, including, but not limited to, authorization of continued operation under a corrective action plan, imposition of administrative fines, and suspension or revocation of certification.

(7) CERTIFIED SURROGACY AGENCIES LIST.—The department shall maintain a publicly accessible list of certified surrogacy agencies, including the certification status of such agencies.

Section 4. Section 742.13, Florida Statutes, is reordered and amended to read:

742.13 Definitions.—As used in ss. 742.11-742.17, the term:

(1) "Assisted reproductive technology" means those procreative procedures which involve the laboratory handling of human eggs, sperm, or preembryos, including, but not limited to, in vitro fertilization embryo transfer, gamete intrafallopian transfer, pronuclear stage transfer, tubal embryo transfer, and zygote intrafallopian transfer.

(2) "Commissioning couple" means the intended mother and father of a child who will be conceived by means of assisted reproductive technology ~~using the eggs or sperm of at least one of the intended parents~~.

(3) "Disqualified person" means a person who fails to meet the level 2 screening standards under s. 435.04.

(4) ~~(3)~~ "Egg" means the unfertilized female reproductive cell.

(5) ~~(4)~~ "Fertilization" means the initial union of an egg and sperm.

(8) ~~(5)~~ "Gestational surrogate" means a woman who contracts to become pregnant by means of assisted reproductive technology without the use of an egg from her body and with the use of an egg or sperm from the commissioning couple.

(7) ~~(6)~~ "Gestational surrogacy" means a state that results

from a process in which a commissioning couple's eggs or sperm, or both, are mixed in vitro and the resulting preembryo is implanted within another woman's body.

(15)~~(7)~~ "~~Gestational~~ Surrogacy contract" means a written agreement between the gestational surrogate or surrogate and the commissioning couple.

(6)~~(8)~~ "Gamete intrafallopian transfer" means the direct transfer of eggs and sperm into the fallopian tube prior to fertilization.

(9) "Implantation" means the event that occurs when a fertilized egg adheres to the uterine wall for nourishment.

(10) "In vitro" refers to a laboratory procedure performed in an artificial environment outside a woman's body.

(11) "In vitro fertilization embryo transfer" means the transfer of an in vitro fertilized preembryo into a woman's uterus.

(12) "Preembryo" means the product of fertilization of an egg by a sperm until the appearance of the embryonic axis.

(13) "Pronuclear stage transfer" or "zygote intrafallopian transfer" means the transfer of an in vitro fertilized preembryo into the fallopian tube before cell division takes place.

(14) "Sperm" means the male reproductive cell.

(16) "Surrogate" means a woman who contracts to become pregnant by means of assisted reproductive technology with the use of an egg from her body.

(17) ~~(15)~~ "Tubal embryo transfer" means the transfer of a dividing, in vitro fertilized preembryo into the fallopian tube.

Section 5. Subsections (1), (2), and (3) of section 742.15, Florida Statutes, are amended to read:

742.15 ~~Gestational~~ Surrogacy contract.—

(1) Before ~~Prior to~~ engaging in gestational surrogacy or surrogacy, a binding and enforceable ~~gestational~~ surrogacy contract must ~~shall~~ be made between the commissioning couple and the gestational surrogate or surrogate. A contract for ~~gestational~~ surrogacy is ~~shall~~ not ~~be~~ binding and enforceable unless:

(a) The gestational surrogate or surrogate is 18 years of age or older and is not a disqualified person; ~~and~~

(b) The commissioning couple are legally married and are both 18 years of age or older;

(c) Neither member of the commissioning couple is a disqualified person;

(d) Each member of the commissioning couple is a United States citizen, a lawful and permanent resident of the United States, or domiciled in this state and lawfully present in the United States under federal law;

(e) The gestational surrogate or surrogate is domiciled in this state and is a United States citizen or lawful permanent resident of the United States; and

(f) The contract was drafted by an attorney who is a

member in good standing of The Florida Bar.

(2) The commissioning couple may ~~shall~~ enter into a contract with a gestational surrogate only if ~~when~~, within reasonable medical certainty as determined and stated in a written statement under oath by a physician licensed under chapter 458 or chapter 459:

(a) The commissioning mother cannot physically gestate a pregnancy to term;

(b) The gestation will cause a risk to the physical health of the commissioning mother; or

(c) The gestation will cause a risk to the health of the fetus.

(3) A ~~gestational~~ surrogacy contract must include the following provisions, as applicable:

(a) The commissioning couple agrees that the gestational surrogate or surrogate is ~~shall be~~ the sole source of consent with respect to clinical intervention and management of the pregnancy.

(b) The gestational surrogate or surrogate agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

(c) The commissioning couple agrees not to reduce any amount paid to the gestational surrogate or surrogate if the child is stillborn or is born alive but impaired, or to provide

for the payment of a supplement or bonus for any reason.

(d) The commissioning couple agrees that they may not require the termination of the gestational surrogate's or surrogate's pregnancy.

(e) Except as provided in paragraph (g) ~~(c)~~, the gestational surrogate or surrogate agrees to relinquish any parental rights upon the child's birth and to proceed with the judicial proceedings prescribed under s. 742.16.

(f) ~~(d)~~ Except as provided in paragraph (g) ~~(c)~~, the commissioning couple agrees to accept custody of and to assume full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment of the child.

(g) ~~(e)~~ The gestational surrogate agrees to assume parental rights and responsibilities for the child born to her if it is determined that neither member of the commissioning couple is the genetic parent of the child.

(h) The parties understand that the surrogacy contract is void and that a court may not affirm the parentage of the commissioning couple if a member of the commissioning couple is a disqualified person as defined in s. 742.13.

Section 6. Section 742.155, Florida Statutes, is created to read:

742.155 Preconception validation of surrogacy contract.—

(1) The commissioning couple and the prospective

gestational surrogate or surrogate may petition a court to validate a surrogacy contract if:

(a) The prospective gestational surrogate or surrogate or the commissioning couple has resided in this state for the 90-day period preceding the date the petition is filed;

(b) The prospective gestational surrogate's or surrogate's husband, if she is married, is joined as a party to the proceeding; and

(c) A copy of the surrogacy contract is attached to the petition.

(2) The court may validate a surrogacy contract as provided by subsection (3) only if the court finds that:

(a) The medical evidence provided for a contract with a gestational surrogate shows that:

1. The commissioning mother cannot physically gestate a pregnancy to term;

2. The gestation will cause a risk to the physical health of the commissioning mother; or

3. The gestation will cause a risk to the health of the fetus;

(b) A favorable preliminary home study of the intended parents has been performed consistent with s. 63.092;

(c) Each party to the contract has voluntarily entered into and understands the terms of the contract;

(d) The contract includes the provisions required by s.

742.15 and does not include any prohibited provisions;

(e) None of the parties to the contract are disqualified persons; and

(f) The parties have adequately specified which party is responsible for all reasonable health care expenses associated with the pregnancy, including specifying which party is responsible for such expenses if the contract is terminated.

(3) If the court finds that the requirements of subsection (2) are satisfied, the court may render an order validating the surrogacy contract and declaring that the commissioning couple will be the parents of a child born under the agreement, except as provided in s. 742.16 relating to proceedings to affirm the parental status of a child conceived through gestational surrogacy or surrogacy.

(4) The court may validate the surrogacy contract at the court's discretion. The court's determination of whether to validate the surrogacy contract is subject to review only for abuse of discretion.

Section 7. Present subsections (7), (8), and (9) of section 742.16, Florida Statutes, are redesignated as subsections (8), (9), and (10), respectively, a new subsection (7) is added to that section, and subsections (1) and (3), paragraph (a) of subsection (4), subsection (6), and present subsections (7) and (8) of that section are amended, to read:

742.16 Expedited affirmation of parental status for

~~gestational~~ surrogacy.—

(1) Within 3 days after the birth of a child delivered of a gestational surrogate or surrogate, the commissioning couple shall petition a court of competent jurisdiction in the circuit where the commissioning couple or gestational surrogate or surrogate resides for an expedited affirmation of parental status. After a commissioning couple petitions the court for the affirmation of parental status, the clerk of the court shall request and obtain a level 2 security background investigation as described in s. 435.04 of the commissioning couple from the Department of Law Enforcement and provide the results to the court.

(3) Upon a showing by the commissioning couple, ~~or~~ the child, or the gestational surrogate or surrogate that privacy rights may be endangered, the court may order the names of the commissioning couple, ~~or~~ the child, or the gestational surrogate or surrogate, or any combination thereof, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing shall be given by the commissioning couple to:

(a) The gestational surrogate or surrogate.

(6) The commissioning couple or their legal representative shall appear at the hearing on the petition. At the conclusion

of the hearing, the court shall enter an order stating that the commissioning couple are the legal parents of the child if the court determines that:

(a) ~~after the court has determined that~~ A binding and enforceable ~~gestational~~ surrogacy contract has been executed pursuant to s. 742.15;

(b) ~~and that~~ At least one member of the commissioning couple is the genetic parent of the child, if the child was to have been conceived pursuant to a surrogacy contract with a gestational surrogate; and

(c) Neither the intended mother nor the intended father is a disqualified person ~~the court shall enter an order stating that the commissioning couple are the legal parents of the child~~.

(7) If the affirmation of parentage is denied because a member of the commissioning couple is a disqualified person:

(a) The gestational surrogate or surrogate shall be deemed the natural mother of the child and have the right to child support from the commissioning couple;

(b) The commissioning couple may not be granted time-sharing or parental responsibility; and

(c) The consent of the commissioning couple is not required for the adoption of the child.

(8)~~(7)~~ If ~~When~~ at least one member of the commissioning couple is the genetic parent of the child born to a gestational

surrogate or surrogate, the commissioning couple shall be presumed to be the natural parents of the child.

(9) ~~(8)~~ Within 30 days after entry of the order affirming the parental status of the commissioning couple, the clerk of the court shall prepare a certified statement of the order for the state registrar of vital statistics on a form provided by the registrar. The court shall thereupon enter an order requiring the Department of Health to issue a new birth certificate naming the commissioning couple as parents and requiring the department to seal the original birth certificate.

Section 8. This act shall take effect July 1, 2026.