

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1636

H.P. 1181

House of Representatives, May 11, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative DORE of Auburn.

Cosponsored by Representative RYDELL of Brunswick, Representative COTE of Auburn and Representative PARADIS of Frenchville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Relating to Surrogate Parenting.



1 Be it enacted by the People of the State of Maine as follows:

3 19 MRSA c. 5, subc. IV is enacted to read:

5 SUBCHAPTER IV

7 SURROGATE PARENT

9 §291. Surrogate agreements

11 1. Agreement void and unenforceable. Any contract or other
13 agreement by which a woman agrees to become a surrogate as
defined in subsection 2 shall be absolutely void and
15 unenforceable as contrary to public policy.

17 2. Surrogate defined. "Surrogate" means a woman who enters
into an agreement to be inseminated or receive an embryonic
19 implant when the contributor of the sperm is not her husband; to
bear a child so conceived; and then to relinquish to the
21 contributor of the sperm or egg, or both, all rights and
obligations to the child.

23 3. Fee. Any fee paid in connection with a surrogate
25 agreement that exceeds the actual and reasonable medical expenses
of the surrogate related to the pregnancy and birth shall be
27 confiscated and placed in trust for the benefit of the child.

29 4. Brokerage prohibited. No person may receive any
compensation for any services rendered in arranging, facilitating
31 or brokering a contract or agreement for a woman to become a
surrogate parent. Any person who accepts any compensation for
33 these services is guilty of a Class D crime. Any compensation
received for these services shall be confiscated and placed in
35 trust for the benefit of the child.

37 §292. Paternity

39 Establishment of paternity and enforcement of the
obligations of paternity for any child born pursuant to a
41 surrogate agreement shall be according to subchapter III.

43 §293. Parental rights and responsibilities; support

45 The parental rights and responsibilities and support of any
child born to a surrogate shall be determined by the court under
47 the terms of section 214. Until a final order is issued
allocating parental rights and responsibilities, physical custody
49 of the child shall remain with the surrogate, unless the court
determines that the best interests of the child require temporary
51 placement in a licensed foster home.

1

3

STATEMENT OF FACT

5

This bill establishes that surrogate parent contracts are against public policy and not legal or binding in this State. In the case of a child born pursuant to such a void contract, the child's natural mother has all usual rights to the child, any rights of the sperm donor, donor's spouse, or egg donor, must be established pursuant to the usual paternity custody and adoption laws of the State. To further discourage surrogate agreements, any fee paid to the mother beyond her actual medical expenses would be confiscated and placed in trust for the child.

7

9

11

13

15

Compensated brokerage services are prohibited by this bill and violation of the prohibition is a Class D crime. Any compensation received for brokerage services is to be forfeited and placed in trust for the child.

17

19

21

Finally, a court must allocate parental rights and responsibilities and responsibility for support. Until a final determination on these issues is made, custody of the child is to be held by the surrogate mother.

23