

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 345

H.P. 254

House of Representatives, February 5, 1991

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 PARADIS of Frenchville, Representative COTE of Auburn and Senator KANY of Kennebec.

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STATE OF MAINE

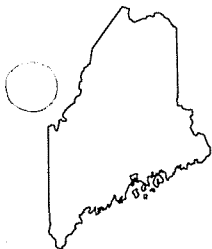
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act Relating to Surrogate Parenting.**

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

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19 MRSA c. 5, sub-c. IV is enacted to read:

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**SUBCHAPTER IV**

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**SURROGATE PARENT**

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**§291. Surrogate agreements**

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

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

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

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

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**§292. Paternity**

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

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**§293. Parental rights and responsibilities; support**

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

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## STATEMENT OF FACT

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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 so-called surrogate 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 is confiscated and placed in trust for the child.

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.

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 so-called surrogate mother.