

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1532

S.P. 594

In Senate, January 6, 2016

An Act To Clarify Financial Responsibility in Gestational Carrier Agreements

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator ROSEN of Hancock.

Cosponsored by Senators: BURNS of Washington, KATZ of Kennebec.

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

2 **Sec. 1. 19-A MRSA §1932, sub-§4**, as enacted by PL 2015, c. 296, Pt. A, §1 and
3 affected by Pt. D, §1, is amended to read:

4 **4. Reasonable expenses.** A Except as provided in section 1939, a gestational carrier
5 agreement may provide for payment of reasonable expenses, which, if paid to a
6 prospective gestational carrier, must be negotiated in good faith between the parties.

7 **Sec. 2. 19-A MRSA §1939** is enacted to read:

8 **§1939. Liability for payment of gestational carrier and child's medical expenses**

9 **1. Joint and several liability for medical expenses.** The gestational carrier and
10 each intended parent are jointly and severally liable for the medical expenses of the
11 gestational carrier and, notwithstanding section 1932, subsection 3, paragraph J,
12 subparagraph (4), division (b) and section 1933, of the resulting child. As used in this
13 section, "medical expenses" means all medical care provided for assisted reproduction,
14 prenatal care, labor and delivery and 60 days of postpartum medical care related to the
15 pregnancy and the health of the resulting child.

16 **2. Effect of conflicting terms or breach of agreement.** If a term of a gestational
17 carrier agreement is in conflict with the requirements of subsection 1, that term of the
18 gestational carrier agreement is void and unenforceable. The breach of a gestational
19 carrier agreement by a party to the agreement does not relieve the gestational carrier or an
20 intended parent from the liability for medical expenses imposed pursuant to subsection 1.

21 **3. Effect on insurance coverage.** This section is not intended to supplant any
22 insurance coverage that is otherwise available to the gestational carrier or an intended
23 parent for the coverage of medical expenses.

24 **SUMMARY**

25 Under the Maine Parentage Act, immediately upon the birth of a child that is the
26 result of a gestational carrier agreement, all parental rights and responsibilities vest
27 exclusively in the intended parent or parents.

28 This bill specifies that medical costs of the gestational carrier and the child, including
29 the costs related to assisted reproduction and the pregnancy, including labor and delivery,
30 and postpartum pregnancy-related medical care for 60 days following the birth, are
31 jointly and severally the responsibility of the gestational carrier and each intended parent.
32 The bill prohibits the waiver of this responsibility and specifies that a breach of the
33 gestational carrier agreement does not change the status of the responsibility. Finally,
34 this bill specifies that these provisions are not intended to relieve insurance carriers of
35 their obligation to provide coverage for their insureds.