

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1904

By: Duncan

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2001,
8 Sections 553 and 556, which relate to human embryo
9 transfers and donations; providing for exception;
10 defining terms; providing for certain surrogacy
11 agreement; providing for procedures; providing for
12 codification; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 10 O.S. 2001, Section 553, is
15 amended to read as follows:

16 Section 553. A. No person shall perform the technique of
17 heterologous artificial insemination unless currently licensed to
18 practice medicine in this state, and then only at the request and
19 with the written consent of the husband and wife desiring the
20 utilization of such technique. The ~~said~~ consent shall be executed
21 and acknowledged by both the husband and wife and the person who is
22 to perform the technique, and the judge having jurisdiction over
23 adoption of children, and an original thereof shall be filed under
24 the same rules as adoption papers. The written consent so filed

1 shall not be open to the general public, and the information
2 contained therein may be released only to the persons executing ~~such~~
3 the consent, or to persons having a legitimate interest therein as
4 evidenced by a specific court order.

5 B. The provisions of this section shall not apply to the
6 conditions set forth in Section 3 of this act.

7 SECTION 2. AMENDATORY 10 O.S. 2001, Section 556, is
8 amended to read as follows:

9 Section 556. A. 1. No person shall perform the technique of
10 human embryo transfer unless currently licensed to practice medicine
11 in this state, and then only at the request and with the written
12 consent of the husband and wife desiring to receive the human embryo
13 transfer. In addition, the written consent of the husband and wife
14 donating the human embryo shall be obtained by the physician.

15 2. The written consent of the husband and wife desiring to
16 receive the human embryo transfer shall be executed and acknowledged
17 by both the husband and wife, by the physician who is to perform the
18 technique, and by any judge of a court having adoption jurisdiction
19 in this state. The original of the executed consent shall be filed
20 with the court in conformity to Section 553 of ~~Title 10 of the~~
21 ~~Oklahoma Statutes~~ this title.

22 3. The original of the written consent of the husband and wife
23 donating the human embryo shall be filed with the court by the
24 physician performing the technique.

1 4. The written consents so filed shall not be open to the
2 general public. The information contained therein, may be released
3 only to persons having a legitimate interest therein as evidenced by
4 a specific court order.

5 B. 1. Any child or children born as a result of a human embryo
6 transfer donation shall be considered for all legal intents and
7 purposes, the same as a naturally conceived legitimate child of the
8 husband and wife that consent to and receive a human embryo
9 transfer.

10 2. The husband and wife donating the human embryo shall be
11 relieved of all parental responsibilities for any child or children
12 resulting from the human embryo transfer.

13 C. The husband and wife donating the embryo shall have no
14 right, obligation or interest with respect to a child born as a
15 result of the donation or to the property of the child by descent or
16 distribution.

17 D. A child born as a result of an embryo transfer donation
18 shall have no right, obligation or interest with respect to the
19 husband and wife who donated the embryo.

20 E. The transfer and donation of human embryos pursuant to this
21 section shall not be construed as trafficking in children if:

22 1. The human embryo is donated by the biological parents of the
23 embryo;

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1 2. The human embryo is not at ~~anytime~~ any time offered for sale
2 or sold; and

3 3. The human embryo transfer and donation is made pursuant to
4 the provisions of this section.

5 F. The provisions of this section shall not apply to the
6 conditions set forth in Section 3 of this act.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 557 of Title 10, unless there is
9 created a duplication in numbering, reads as follows:

10 A. For the purposes of this section:

11 1. "Preembryo" means the cell mass that results from
12 fertilization of an ovum prior to implantation;

13 2. "Surrogacy arrangement" means an arrangement by which a
14 woman agrees to be impregnated with a preembryo with the intent that
15 the intended parents are to become the parents of the resulting
16 child after birth; and

17 3. "Surrogate" means a woman who agrees pursuant to a surrogacy
18 contract to bear a child for intended parents.

19 B. In the case of a surrogacy arrangement in which the
20 surrogate shall have no genetic relationship with the child, a court
21 proceeding, as provided for in Sections 553 and 556 of Title 10 of
22 the Oklahoma Statutes, shall not be required and the contract shall
23 be enforceable if:
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1 1. The surrogate, her husband, if any, and the biological
2 parents sign a written contract and the contract is acknowledged;

3 2. Upon expiration of twenty-five (25) days following the birth
4 of any resulting child, the surrogate relinquishes parental rights
5 to the biological parents by signing a surrogate consent and report
6 form naming the biological parents as the parents of the child. The
7 surrogate consent and report form shall be signed and acknowledged;

8 3. The surrogate consent and report form, a copy of the
9 contract, and a statement from the physician who performs the
10 assisted conception stating the genetic relationships between the
11 child, the surrogate, and the biological parents shall be filed with
12 the State Department of Health Vital Records Division within sixty
13 (60) days after the birth. The statement from the physician shall
14 be signed and acknowledged. There shall be a rebuttable presumption
15 that the statement from the physician accurately states the genetic
16 relationships among the child, the surrogate, and the biological
17 parents; and

18 4. Upon the filing of the surrogate consent and report form and
19 the required attachments, including the statement of the physician,
20 within sixty (60) days of the birth, a new birth certificate shall
21 be issued by the State Department of Health Vital Records Division
22 for the child naming the biological parents as the parents of the
23 child.

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1 C. Any contract governed by the provisions of this section
2 shall include the following provisions:

3 1. A statement that the biological parents shall be the parents
4 of any resulting child upon relinquishment of parental rights by the
5 surrogate and a new birth certificate shall be issued in accordance
6 with this section;

7 2. A statement by each of the parties that each party has read
8 and understood the contract, the parties know and understand all
9 rights and responsibilities under Oklahoma law, and the contract was
10 entered into knowingly and voluntarily; and

11 3. An agreement by the parties for payment of reasonable
12 medical and ancillary costs, including allocation of responsibility
13 for the costs in the event of termination of pregnancy, termination
14 of the contract, or breach of the contract by either party.

15 SECTION 4. This act shall become effective November 1, 2009.

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