

1.1 Senator moves to amend S.F. No. 3504 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 **"ASSISTED REPRODUCTION**

1.4 Section 1. **[257E.10] DEFINITIONS.**

1.5 Subdivision 1. **Definitions.** For purposes of this chapter, the following terms have the
1.6 meanings given.

1.7 Subd. 2. **Assisted reproduction.** "Assisted reproduction" means a method of causing
1.8 pregnancy other than sexual intercourse. The term includes:

1.9 (1) intrauterine, intracervical, or vaginal insemination;

1.10 (2) donation of gametes;

1.11 (3) donation of embryos;

1.12 (4) in vitro fertilization and transfer of embryos; and

1.13 (5) intracytoplasmic sperm injection.

1.14 Subd. 3. **Birth.** "Birth" includes fetal deaths reportable under section 144.222.

1.15 Subd. 4. **Determination of parentage.** "Determination of parentage" means establishment
1.16 of a parent-child relationship by a judicial proceeding or signing of a valid recognition of
1.17 parentage under section 257.75.

1.18 Subd. 5. **Donor.** "Donor" means an individual who provides gametes intended for use
1.19 in assisted reproduction, whether or not for consideration. The term does not include:

1.20 (1) an individual who gives birth to a child conceived by assisted reproduction, except
1.21 as otherwise provided in sections 257E.30 to 257E.39; or

1.22 (2) a parent or intended parent using assisted reproduction under sections 257E.20 to
1.23 257E.27 or an intended parent under a gestational surrogacy agreement under sections
1.24 257E.30 to 257E.39.

1.25 Subd. 6. **Gamete.** "Gamete" means a sperm or egg.

1.26 Subd. 7. **Genetic testing.** "Genetic testing" means an analysis of genetic markers to
1.27 identify or exclude a genetic relationship.

1.28 Subd. 8. **Gestational surrogate.** "Gestational surrogate" means an individual who is
1.29 not an intended parent and who agrees to become pregnant through assisted reproduction

2.1 using gametes that are not their own, under a gestational surrogacy agreement as provided
2.2 in this chapter.

2.3 Subd. 9. **Intended parent.** "Intended parent" means an individual, married or unmarried,
2.4 who manifests an intent to be legally bound as a parent of a child conceived by assisted
2.5 reproduction.

2.6 Subd. 10. **Parent.** "Parent" means an individual who is the legal parent of a child under
2.7 the laws of the state.

2.8 Subd. 11. **Parentage; parent-child relationship.** "Parentage" or "parent-child
2.9 relationship" means the legal relationship between a child and a parent of the child.

2.10 Subd. 12. **Presumed parent.** "Presumed parent" means an individual who under sections
2.11 257.51 to 257.74 is presumed to be a parent of a child, unless the requirements of section
2.12 257.57, subdivision 2 are met; the presumption is overcome in a judicial proceeding; a valid
2.13 denial of parentage is made under this chapter; or a court adjudicates the individual to be a
2.14 parent.

2.15 Subd. 13. **Surrogacy agreement.** "Surrogacy agreement" means an agreement between
2.16 one or more intended parents and an individual who is not an intended parent in which the
2.17 individual agrees to become pregnant through assisted reproduction and that provides that
2.18 each intended parent is a parent of a child conceived under the agreement.

2.19 Subd. 14. **Transfer.** "Transfer" means a procedure for assisted reproduction by which
2.20 an embryo or sperm is placed in the body of the individual who will give birth to the child.

2.21 **ASSISTED REPRODUCTION WITHOUT SURROGACY**

2.22 **Sec. 2. [257E.15] ORDERS OF PARENTAGE.**

2.23 (a) If the court determines that an individual is a parent under this chapter, either because
2.24 the individual gave birth to the child or the individual is a consenting intended parent under
2.25 section 257E.23, the court shall adjudicate the individual to be a parent of the child.

2.26 (b) An individual who is or claims to be a parent under this section or the individual
2.27 who gave birth to the child may commence a proceeding before or after the birth of the
2.28 child in district court for an order or judgment:

2.29 (1) declaring that each intended parent is a parent of the child and ordering that parental
2.30 rights and duties vest immediately upon the birth of the child;

3.1 (2) designating the content of the birth record in accordance with applicable law and
3.2 directing the Office of Vital Records to designate each intended parent as a parent of the
3.3 child;

3.4 (3) to protect the privacy of the child and the parties, declaring that the court record is
3.5 not open to inspection except as authorized under section 257E.33; and

3.6 (4) for other relief the court determines necessary and proper.

3.7 (c) The court may issue an order or judgment under this section before the birth of the
3.8 child. The court shall stay enforcement of the order or judgment until the birth of the child.

3.9 (d) Neither this state nor the Office of Vital Records is a necessary party to a proceeding
3.10 under this section.

3.11 **Sec. 3. [257E.20] SCOPE.**

3.12 Sections 257E.20 to 257E.27 do not apply to the birth of a child conceived by sexual
3.13 intercourse or assisted reproduction under a surrogacy agreement under sections 257E.30
3.14 to 257E.39.

3.15 **Sec. 4. [257E.21] PARENTAL STATUS OF DONOR.**

3.16 A donor is not a parent of a child conceived by assisted reproduction.

3.17 **Sec. 5. [257E.22] PARENTAGE OF CHILD OF ASSISTED REPRODUCTION.**

3.18 An intended parent who consents under section 257E.23 to assisted reproduction by
3.19 another individual with the intent to be a parent of a child conceived by assisted reproduction
3.20 is a parent of the child.

3.21 **Sec. 6. [257E.23] CONSENT TO ASSISTED REPRODUCTION.**

3.22 (a) Except as otherwise provided in paragraph (b), the consent described in section
3.23 257E.22 must be in a record signed by the individual giving birth to a child conceived by
3.24 assisted reproduction and an intended parent.

3.25 (b) Failure to consent in a record as required by paragraph (a), before, on, or after the
3.26 birth of the child, does not preclude the court from finding consent to parentage if:

3.27 (1) the individual giving birth to a child or the intended parent proves by
3.28 clear-and-convincing evidence the existence of an express agreement entered into before

4.1 conception that the intended parent and the individual giving birth to the child intended they
4.2 both would be parents of the child; or

4.3 (2) the individual giving birth to a child and the intended parent for the first two years
4.4 of the child's life, including any period of temporary absence, resided together in the same
4.5 household with the child and both openly held out the child as the intended parent's child,
4.6 unless the intended parent dies or becomes incapacitated before the child attains two years
4.7 of age or the child dies before the child attains two years of age, in which case the court
4.8 may find consent under this paragraph to parentage if a party proves by clear-and-convincing
4.9 evidence that the individual giving birth to the child and the intended parent intended to
4.10 reside together in the same household with the child and both intended the intended parent
4.11 would openly hold out the child as the intended parent's child, but the intended parent was
4.12 prevented from carrying out that intent by death or incapacity.

4.13 **Sec. 7. [257E.24] SPOUSE'S DISPUTE OF PARENTAGE; LIMITATIONS.**

4.14 (a) Except as otherwise provided in paragraph (b), an individual who, at the time of a
4.15 child's birth, is the spouse of the parent who gave birth to the child by assisted reproduction
4.16 may not challenge the individual's parentage of the child unless:

4.17 (1) not later than two years after the birth of the child, the spouse commences a proceeding
4.18 to adjudicate the spouse's parentage of the child; and

4.19 (2) the court finds the spouse did not consent to the assisted reproduction, before, on,
4.20 or after birth of the child, or withdrew consent under section 257E.26.

4.21 (b) A proceeding to adjudicate a spouse's parentage of a child born by assisted
4.22 reproduction may be commenced at any time if the court determines:

4.23 (1) the spouse neither provided a gamete for, nor consented to, the assisted reproduction;

4.24 (2) the spouse and the parent who gave birth to the child have not cohabited since the
4.25 probable time of assisted reproduction; and

4.26 (3) the spouse never openly held out the child as the spouse's child.

4.27 (c) This section applies to a spouse's dispute of parentage even if the spouse's marriage
4.28 is declared invalid after assisted reproduction occurs.

4.29 **Sec. 8. [257E.25] EFFECT OF DISSOLUTION.**

4.30 If a marriage of an individual who gives birth to a child conceived by assisted
4.31 reproduction is terminated through divorce or dissolution, subject to legal separation or

5.1 separate maintenance, declared invalid, or annulled before transfer of gametes or embryos
5.2 to the individual giving birth to the child, a former spouse of the individual giving birth to
5.3 the child is not a parent of the child unless the former spouse consented in a record that the
5.4 former spouse would be a parent of the child if assisted reproduction were to occur after a
5.5 divorce, dissolution, annulment, declaration of invalidity, legal separation, or separate
5.6 maintenance, and the former spouse did not withdraw consent under section 257E.26.

5.7 **Sec. 9. [257E.26] WITHDRAWAL OF CONSENT.**

5.8 (a) An intended parent who consents under section 257E.23 to assisted reproduction
5.9 may withdraw consent any time before a transfer that results in a pregnancy, by giving
5.10 notice in a record of the withdrawal of consent to the individual who agreed to give birth
5.11 to a child conceived by assisted reproduction and to any clinic or health-care provider
5.12 facilitating the assisted reproduction. Failure to give notice to the clinic or health-care
5.13 provider does not affect a determination of parentage under this chapter.

5.14 (b) An individual who withdraws consent under paragraph (a) is not a parent of the child
5.15 under sections 257E.20 to 257E.27.

5.16 **Sec. 10. [257E.27] PARENTAL STATUS OF DECEASED INDIVIDUAL.**

5.17 (a) If an individual who intends to be a parent of a child conceived by assisted
5.18 reproduction dies during the period between the transfer of a gamete or embryo and the
5.19 birth of the child, the individual's death does not preclude the establishment of the individual's
5.20 parentage of the child if the individual otherwise would be a parent of the child under this
5.21 chapter.

5.22 (b) If an individual who consented in a record to assisted reproduction by an individual
5.23 who agreed to give birth to a child dies before a transfer of gametes or embryos, the deceased
5.24 individual is a parent of a child conceived by the assisted reproduction only if:

5.25 (1) either:

5.26 (i) the individual consented in a record that if assisted reproduction were to occur after
5.27 the death of the individual, the individual would be a parent of the child; or

5.28 (ii) the individual's intent to be a parent of a child conceived by assisted reproduction
5.29 after the individual's death is established by clear-and-convincing evidence; and

5.30 (2) either:

5.31 (i) the embryo is in utero not later than 36 months after the individual's death; or

6.1 (ii) the child is born not later than 45 months after the individual's death.

6.2 **GESTATIONAL SURROGACY AGREEMENTS**

6.3 **Sec. 11. [257E.30] PARTIES ELIGIBLE TO ENTER INTO AGREEMENT.**

6.4 Subdivision 1. **Gestational surrogate.** To execute an agreement to act as a gestational
6.5 surrogate, an individual must:

6.6 (1) have attained 21 years of age;

6.7 (2) previously have given birth to at least one child;

6.8 (3) complete a medical evaluation related to the surrogacy arrangement by a licensed
6.9 health care provider;

6.10 (4) complete a mental-health consultation by a licensed mental-health professional; and

6.11 (5) have independent legal representation of their choice throughout the surrogacy
6.12 arrangement regarding the terms of the surrogacy agreement and the potential legal
6.13 consequences of the agreement.

6.14 Subd. 2. **Intended parent.** To execute a surrogacy agreement, each intended parent,
6.15 whether or not genetically related to the child, must:

6.16 (1) have attained 21 years of age; and

6.17 (2) have independent legal representation of the intended parent's choice throughout the
6.18 surrogacy arrangement regarding the terms of the surrogacy agreement and the potential
6.19 legal consequences of the agreement.

6.20 **Sec. 12. [257E.31] GESTATIONAL SURROGACY AGREEMENT**
6.21 **REQUIREMENTS.**

6.22 Subdivision 1. **Procedural requirements.** A surrogacy agreement must be executed in
6.23 compliance with the following rules:

6.24 (1) at least one party must be a resident of this state or, if no party is a resident of this
6.25 state, at least one procedure under the agreement must occur in this state;

6.26 (2) a surrogate and each intended parent must meet the requirements of section 257E.30;

6.27 (3) each intended parent, the surrogate, and the surrogate's spouse, if any, must be parties
6.28 to the agreement;

6.29 (4) the agreement must be in a record signed by each party listed in clause (3);

7.1 (5) the surrogate and each intended parent must acknowledge in a record receipt of a
7.2 copy of the agreement;

7.3 (6) the signature of each party to the agreement must be attested by a notarial officer or
7.4 witnessed;

7.5 (7) the surrogate and the intended parent or parents must have independent legal
7.6 representation throughout the surrogacy arrangement regarding the terms of the surrogacy
7.7 agreement and the potential legal consequences of the agreement, and each counsel must
7.8 be identified in the surrogacy agreement;

7.9 (8) the intended parent or parents must pay for independent legal representation for the
7.10 surrogate; and

7.11 (9) the agreement must be executed before a procedure occurs related to the surrogacy
7.12 agreement.

7.13 Subd. 2. **Substantive requirements.** A surrogacy agreement must comply with the
7.14 following requirements:

7.15 (1) a surrogate agrees to attempt to become pregnant by means of assisted reproduction;

7.16 (2) except as otherwise provided in section 257E.38, the surrogate and the surrogate's
7.17 spouse or former spouse, if any, have no claim to parentage of a child conceived by assisted
7.18 reproduction under the agreement;

7.19 (3) the surrogate's spouse, if any, must acknowledge and agree to comply with the
7.20 obligations imposed on the surrogate by the agreement;

7.21 (4) except as otherwise provided in section 257E.38, the intended parent or, if there are
7.22 two intended parents, each one jointly and severally, immediately on birth will be the
7.23 exclusive parent or parents of the child, regardless of the number of children born or gender
7.24 or mental or physical characteristics or conditions of each child;

7.25 (5) except as otherwise provided in section 257E.38, the intended parent or, if there are
7.26 two intended parents, each parent jointly and severally, immediately on birth will assume
7.27 responsibility for the financial support of the child, regardless of the number of children
7.28 born or gender or mental or physical characteristics or conditions of each child;

7.29 (6) the agreement must include information disclosing how each intended parent will
7.30 cover the surrogacy-related expenses of the surrogate and the medical expenses of the child.
7.31 If health-care coverage is used to cover the medical expenses, the disclosure must include
7.32 a summary of the health-care policy provisions related to coverage for surrogate pregnancy,

8.1 including any possible liability of the surrogate, third-party-liability liens, other insurance
8.2 coverage, and any notice requirement that could affect coverage or liability of the surrogate.
8.3 Unless the agreement expressly provides otherwise, the review and disclosure do not
8.4 constitute legal advice. If the extent of coverage is uncertain, a statement of that fact is
8.5 sufficient to comply with this clause;

8.6 (7) the agreement must permit the surrogate to make all health and welfare decisions
8.7 regarding themselves and their pregnancy. This chapter does not enlarge or diminish the
8.8 surrogate's right to terminate the pregnancy; and

8.9 (8) the agreement must include information about each party's right under sections
8.10 257E.30 to 257E.39 to terminate the surrogacy agreement.

8.11 Subd. 3. **Payment and reimbursement.** A surrogacy agreement may provide for:

8.12 (1) payment of consideration and reasonable expenses; and

8.13 (2) reimbursement of specific expenses if the agreement is terminated under sections
8.14 257E.30 to 257E.39.

8.15 Subd. 4. **Nonassignable.** A right created under a surrogacy agreement is not assignable
8.16 and there is no third-party beneficiary of the agreement other than the child.

8.17 Sec. 13. **[257E.32] EFFECT OF SUBSEQUENT CHANGE OF MARITAL STATUS.**

8.18 (a) Unless a surrogacy agreement expressly provides otherwise:

8.19 (1) the marriage of a surrogate after the agreement is signed by all parties does not affect
8.20 the validity of the agreement, the surrogate's spouse's consent to the agreement is not required,
8.21 and the surrogate's spouse is not a presumed parent of a child conceived by assisted
8.22 reproduction under the agreement; and

8.23 (2) the divorce, dissolution, annulment, declaration of invalidity, legal separation, or
8.24 separate maintenance of the surrogate after the agreement is signed by all parties does not
8.25 affect the validity of the agreement.

8.26 (b) Unless a surrogacy agreement expressly provides otherwise:

8.27 (1) the marriage of an intended parent after the agreement is signed by all parties does
8.28 not affect the validity of a surrogacy agreement, the consent of the spouse of the intended
8.29 parent is not required, and the spouse of the intended parent is not, based on the agreement,
8.30 a parent of a child conceived by assisted reproduction under the agreement; and

9.1 (2) the divorce, dissolution, annulment, declaration of invalidity, legal separation, or
9.2 separate maintenance of an intended parent after the agreement is signed by all parties does
9.3 not affect the validity of the agreement and the intended parents are the parents of the child.

9.4 **Sec. 14. [257E.33] INSPECTION OF DOCUMENTS.**

9.5 Unless the court orders otherwise, a petition and any other document related to a
9.6 surrogacy agreement filed with the court under sections 257E.30 to 257E.34 are not open
9.7 to inspection by any individual other than the parties to the proceeding, a child conceived
9.8 by assisted reproduction under the agreement, their attorneys, and the relevant state agency.
9.9 A court may not authorize an individual to inspect a document related to the agreement,
9.10 unless required by exigent circumstances. The individual seeking to inspect the document
9.11 may be required to pay the expense of preparing a copy of the document to be inspected.

9.12 **Sec. 15. [257E.34] EXCLUSIVE, CONTINUING JURISDICTION.**

9.13 During the period after the execution of a surrogacy agreement until 90 days after the
9.14 birth of a child conceived by assisted reproduction under the agreement, a court of this state
9.15 conducting a proceeding under this chapter has exclusive, continuing jurisdiction over all
9.16 matters arising out of the agreement. This section does not give the court jurisdiction over
9.17 a child-custody or child-support proceeding if jurisdiction is not otherwise authorized by
9.18 law of this state other than this chapter.

9.19 **Sec. 16. [257E.35] TERMINATION OF GESTATIONAL SURROGACY**
9.20 **AGREEMENT.**

9.21 (a) A party to a gestational surrogacy agreement may terminate the agreement, at any
9.22 time before an embryo transfer, by giving notice of termination in a record to all other
9.23 parties. If an embryo transfer does not result in a pregnancy, a party may terminate the
9.24 agreement at any time before a subsequent embryo transfer.

9.25 (b) Unless a gestational surrogacy agreement provides otherwise, on termination of the
9.26 agreement under paragraph (a), the parties are released from the agreement, except that
9.27 each intended parent remains responsible for expenses that are reimbursable under the
9.28 agreement and incurred by the gestational surrogate through the date of termination.

9.29 (c) Except in a case involving fraud, neither a gestational surrogate nor the surrogate's
9.30 spouse or former spouse, if any, is liable to the intended parent or parents for a penalty or
9.31 liquidated damages, for terminating a gestational surrogacy agreement under this section.

10.1 Sec. 17. **[257E.36] PARENTAGE UNDER GESTATIONAL SURROGACY**
10.2 **AGREEMENT.**

10.3 (a) Except as otherwise provided in paragraph (c) or section 257E.37, paragraph (b), or
10.4 257E.40, on birth of a child conceived by assisted reproduction under a gestational surrogacy
10.5 agreement, each intended parent is, by operation of law, a parent of the child.

10.6 (b) Except as otherwise provided in paragraph (c) or section 257E.39, neither a gestational
10.7 surrogate nor the surrogate's spouse or former spouse, if any, is a parent of the child.

10.8 (c) If a child is alleged to be a genetic child of the individual who agreed to be a
10.9 gestational surrogate, the court shall order genetic testing of the child. If the child is a genetic
10.10 child of the individual who agreed to be a gestational surrogate, parentage must be determined
10.11 based on sections 257.51 to 257.74.

10.12 (d) Except as otherwise provided in paragraph (c) or section 257E.37, paragraph (b), or
10.13 257E.39, if, due to a clinical or laboratory error, a child conceived by assisted reproduction
10.14 under a gestational surrogacy agreement is not genetically related to an intended parent or
10.15 a donor who donated to the intended parent or parents, each intended parent, and not the
10.16 gestational surrogate and the surrogate's spouse or former spouse, if any, is a parent of the
10.17 child, subject to any other claim of parentage.

10.18 Sec. 18. **[257E.37] PARENTAGE OF DECEASED INTENDED PARENT.**

10.19 (a) Section 257E.36 applies to an intended parent even if the intended parent died during
10.20 the period between the transfer of a gamete or embryo and the birth of the child.

10.21 (b) Except as otherwise provided in section 257E.39, an intended parent is not a parent
10.22 of a child conceived by assisted reproduction under a gestational surrogacy agreement if
10.23 the intended parent dies before the transfer of a gamete or embryo unless:

10.24 (1) the agreement provides otherwise; and

10.25 (2) the transfer of a gamete or embryo occurs not later than 36 months after the death
10.26 of the intended parent or birth of the child occurs not later than 45 months after the death
10.27 of the intended parent.

10.28 Sec. 19. **[257E.38] ORDER OF PARENTAGE.**

10.29 (a) Except as otherwise provided in sections 257E.36, paragraph (c), or 257E.39, before,
10.30 on, or after the birth of a child conceived by assisted reproduction under a gestational

11.1 surrogacy agreement, a party to the agreement may commence a proceeding in the district
11.2 court for an order or judgment:

11.3 (1) declaring that each intended parent is a parent of the child and ordering that parental
11.4 rights and duties vest immediately on the birth of the child exclusively in each intended
11.5 parent;

11.6 (2) declaring that the gestational surrogate and the surrogate's spouse or former spouse,
11.7 if any, are not the parents of the child;

11.8 (3) designating the content of the birth record in accordance with applicable law and
11.9 directing the Office of Vital Records to designate each intended parent as a parent of the
11.10 child;

11.11 (4) to protect the privacy of the child and the parties, declaring that the court record is
11.12 not open to inspection except as authorized under section 257E.33;

11.13 (5) if necessary, that the child be surrendered to the intended parent or parents; and

11.14 (6) for other relief the court determines necessary and proper.

11.15 (b) The court may issue an order or judgment under paragraph (a) before the birth of
11.16 the child. The court shall stay enforcement of the order or judgment until the birth of the
11.17 child.

11.18 (c) Neither this state nor the Office of Vital Records is a necessary party to a proceeding
11.19 under paragraph (a).

11.20 **Sec. 20. [257E.39] EFFECT OF AGREEMENT.**

11.21 (a) A gestational surrogacy agreement that complies with sections 257E.30 and 257E.31
11.22 is enforceable.

11.23 (b) If a child was conceived by assisted reproduction under a gestational surrogacy
11.24 agreement that does not comply with sections 257E.30 and 257E.31, the court shall determine
11.25 the rights and duties of the parties to the agreement consistent with the intent of the parties
11.26 at the time of execution of the agreement. Each party to the agreement and any individual
11.27 who at the time of the execution of the agreement was a spouse of a party to the agreement
11.28 has standing to maintain a proceeding to adjudicate an issue related to the enforcement of
11.29 the agreement.

11.30 (c) Except as expressly provided in a gestational surrogacy agreement or paragraph (d)
11.31 or (e), if the agreement is breached by the gestational surrogate or one or more intended
11.32 parents, the non-breaching party is entitled to the remedies available at law or in equity.

12.1 (d) Specific performance is not a remedy available for breach by a gestational surrogate
12.2 of a provision in the agreement that the gestational surrogate be impregnated, terminate or
12.3 not terminate a pregnancy, or submit to medical procedures.

12.4 (e) Except as otherwise provided in paragraph (d), if an intended parent is determined
12.5 to be a parent of the child, specific performance is a remedy available for:

12.6 (1) breach of the agreement by a gestational surrogate which prevents the intended parent
12.7 from exercising immediately on birth of the child the full rights of parentage; or

12.8 (2) breach by the intended parent which prevents the intended parent's acceptance,
12.9 immediately on birth of the child conceived by assisted reproduction under the agreement,
12.10 of the duties of parentage.

12.11 Sec. 21. **REPEALER.**

12.12 Minnesota Statutes 2022, section 257.56, is repealed."

12.13 Amend the title accordingly