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SENATE BILL NO. 163

Senate Amendments in [] - February 2, 2022

Prefiled January 10, 2022

A BILL to amend and reenact § 20-163 of the Code of Virginia, relating to surrogacy contracts; provisions requiring [or prohibiting] abortions or selective reductions unenforceable.

Patrons Prior to Engrossment—Senators Peake and Suetterlein; Delegate: Kory

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That § 20-163 of the Code of Virginia is amended and reenacted as follows:****§ 20-163. Miscellaneous provisions related to all surrogacy contracts.**

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her spouse shall not be deemed a party to the contract in the absence of his explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parent shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, any mental or physical handicap, and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parent as the parent of the resulting child after receipt of such order or copy of the contract.

F. Any contract provision requiring [or prohibiting] an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

ENGROSSED

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