

NEW SECTION. Sec. 5. The department of social and health services, in cooperation with the office of risk management created in accordance with RCW 43.19.19362 and the office of the insurance commissioner, shall establish a task force to examine and report to the legislature by December 1, 1989, on the following subjects:

- (1) The number of foster care homes carrying homeowner's or tenant's liability insurance;
- (2) The number of insurance companies offering liability coverage to foster-family homes;
- (3) The provisions of liability coverage, including any exclusions relevant to foster-care status of the insured;
- (4) The premium cost and the difference, if any, between premium cost for nonfoster-family homes and foster-family homes;
- (5) The number of claims made against each insurer by insureds relevant to the foster-care relationship;
- (6) The feasibility of assisting foster families in obtaining commercial insurance;
- (7) The cost to the department of providing liability insurance to the foster parents; and
- (8) Any other items or suggestions that the task force deems appropriate to include in its report.

Passed the Senate April 17, 1989.

Passed the House April 10, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

CHAPTER 404

[Substitute Senate Bill No. 5071]

SURROGATE PARENTING

AN ACT Relating to surrogate parenting; adding new sections to chapter 26.26 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. As used in sections 1 through 6 of this act:

(1) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual medical expenses of a surrogate mother, and the payment of reasonable attorney fees for the drafting of a surrogate parentage contract.

(2) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(3) "Surrogate mother" means a female, who is not married to the contributor of the sperm, and who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination pursuant to a surrogate parentage contract.

(4) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female, not married to the contributor of the sperm, agrees to conceive a child through natural or artificial insemination or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental rights to the child.

NEW SECTION. Sec. 2. A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability is the surrogate mother.

NEW SECTION. Sec. 3. No person, organization, or agency shall enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract, written or unwritten, for compensation.

NEW SECTION. Sec. 4. A surrogate parentage contract entered into for compensation, whether executed in the state of Washington or in another jurisdiction, shall be void and unenforceable in the state of Washington as contrary to public policy.

NEW SECTION. Sec. 5. Any person, organization, or agency who intentionally violates any provision of this act shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 6. If a child is born to a surrogate mother pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the superior court orders otherwise. The superior court shall award legal custody of the child based upon the factors listed in RCW 26.09.187(3) and 26.09.191.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act are each added to chapter 26.26 RCW.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.