

## REGULATION DETAILS IN THE US BY STATE

**Note:** Some U.S. states have laws that allow surrogacy contracts to be enforced in a court, which means that a court would recognize that the intended parents have parental rights and a person acting as a surrogate does not. In most states without such laws, many people enter into surrogacy contracts, but generally there must be an adoption after birth to accomplish the contract's goal. In states where no adoption is completed and a surrogacy contract is not enforceable, the person acting as a surrogate has parental rights and the intended parents often do not. Under those circumstances, everyone entering a surrogacy contract takes the risk that one of the parties to the contract will change their mind.

### ALABAMA

- State law does not address whether surrogacy contracts of any kind can be enforced in court. It is not a crime to enter a surrogacy contract. [ALA. CODE § 26-10A-33.](#)
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses, but the law specifies that it is not a crime to compensate a person acting as a surrogate beyond reimbursement of expenses. [ALA. CODE § 26-10A-34\(c\).](#)
- In practice, people enter gestational surrogacy contracts in Alabama, but an adoption after birth is usually required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

### ALASKA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Alaska, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption

## ARIZONA

- Gestational surrogacy contracts can be enforced in court under limited circumstances.
  - Gestational surrogacy contracts may be recognized and enforced by a court only when the intended mother is a genetic parent and the person acting as a surrogate still does not want to be a parent after the child is born. [Soos v. Superior Court in and for County of Maricopa, 182 Ariz. 470, P.2d 1356 \(Ct. App. Div. 1 1994\).](#)
  - All other surrogacy contracts are not enforceable in court, and in these situations, a person acting as a gestational surrogate is a parent, and if she is married, her spouse is presumed to be a parent. [A.R. S. § 25-218](#). An adoption would be required to change who the child's parents are.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried under the limited circumstances in which surrogacy contracts are enforceable. [Soos v. Superior Court in and for County of Maricopa, 182 Ariz. 470, P.2d 1356 \(Ct. App. Div. 1 1994\).](#)
- Most same-sex male couples are effectively excluded from entering enforceable surrogacy contracts. Married same-sex female couples may be able to enter an enforceable surrogacy contract where one is a genetic parent. [Soos v. Superior Court in and for County of Maricopa, 182 Ariz. 470, P.2d 1356 \(Ct. App. Div. 1 1994\).](#)
- A single mother who is a genetic parent can enter an enforceable surrogacy contract. A single genetic father cannot enter an enforceable surrogacy contract. A single genetic father who uses surrogacy has parental rights, but the person acting as a surrogate will also have parental rights. [Soos v. Superior Court in and for County of Maricopa, 182 Ariz. 470, P.2d 1356 \(Ct. App. Div. 1 1994\).](#)
- In practice, people enter gestational surrogacy contracts in Arizona, even though many of these contracts cannot be enforced in court. Aside from the limited situation where surrogacy contracts are enforceable, an adoption is required.

## ARKANSAS

- Gestational and genetic surrogacy contracts can be enforced in court, but the law limits which intended parents can enter an enforceable surrogacy contract.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- Intended parents must be married to each other to enter an enforceable surrogacy contract and can only do so when the intended father is a genetic father. [A.C.A. § 9-10-201.](#)
- Same-sex intended parents should be able to enter enforceable surrogacy contracts if they are married where one is a genetic parent. The law refers to a “mother” and “father” who are married, but same-sex spouses have a constitutional right to equal access to all the rights of marriage under state law. This question has not been addressed explicitly by statute or case law. [A.C.A. § 9-10-201.](#)

- Single intended parents can enter enforceable surrogacy contracts, but a single woman may only do so if an anonymous sperm donor is used. An unmarried biological father may enter an enforceable surrogacy contract. [A.C.A. § 9-10-201](#).

## CALIFORNIA

- Gestational surrogacy contracts can be enforced in court. Genetic surrogacy contracts cannot be enforced in court. [Cal. Fam. Code § 7962](#); [Johnson v. Calvert, 5 Cal. 4th 84 \(1993\)](#); [In re Marriage of Moschetta, 25 Cal. App. 4th 1218 \(1994\)](#).
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses.
- Intended parents may enter enforceable gestational surrogacy contracts regardless of whether they are married or unmarried. [Cal. Fam. Code § 7962](#).
- Single intended parents may enter enforceable gestational surrogacy contracts. [Cal. Fam. Code § 7962](#).
- Non-resident intended parents and non-resident persons acting as surrogates can only enter enforceable surrogacy contracts in California in some circumstances. [Cal. Fam. Code § 7962\(e\)](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - o Surrogacy contracts must disclose “how the intended parents will cover the medical expenses of the gestational carrier and of the newborn or newborns.”
  - o Persons acting as surrogates must be represented by independent legal counsel of their choosing, but the law does not require the intended parents to pay for counsel. [Cal. Fam. Code § 7962](#).
- State law requires payments to persons acting as surrogates to be placed in an escrow account or trust account maintained by an attorney if a non-attorney agency or facilitator is involved. Funds paid directly to medical or mental health providers do not need to be placed in escrow. Non-attorney agencies and facilitators may not have an interest in or be an agent of the escrow company. [Cal. Fam. Code §§ 7960, 7961](#).

## COLORADO

- Gestational and genetic surrogacy contracts can be enforced in court. [CO ST § 19-4.5-109](#).
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [CO ST § 19-4.5-106](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [CO ST § 19-4.5-109](#).
- Single intended parents may enter enforceable surrogacy contracts. [CO ST § 19-4.5-109](#).

- One party to the contract must be a resident of the state, unless birth is anticipated to be in the state or the assisted reproduction procedures will occur in the state. [CO ST § 19-4.5-105](#).
- State law addresses some of the rights of a person acting as a surrogate:
  - A person acting as a surrogate must be represented by independent counsel of her choosing, but the intended parents are not required to pay for this representation. [CO ST § 19-4.5-104](#).
  - The person acting as a surrogate must be able “to make all health and welfare decisions regarding themselves and the pregnancy.” [CO ST § 19-4.5-106](#).

## CONNECTICUT

- Gestational and genetic surrogacy contracts can be enforced in court. [CT Gen Stat §§ 46b-521, 529, 532, 535](#).
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [CT Gen Stat §§ 46b-523-24](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [CT Gen Stat § 46b-522](#).
- Single intended parents may enter enforceable surrogacy contracts. [CT Gen Stat § 46b-524](#).
- State law addresses and protects many of the rights of a person acting as a surrogate:
  - A person acting as a surrogate must undergo medical and mental health evaluations. Intended parents must also undergo a mental health evaluation. [CT Gen Stat § 46b-522](#).
  - The intended parents must pay for the following benefits ([CT Gen Stat §§ 46b-522-24](#)):
    - A person acting as a surrogate must be represented by independent counsel of her choosing,
    - Health insurance during pregnancy and 8 weeks after birth,
    - Life insurance, and Medical expenses of a person acting as a surrogate and the child that are not covered by insurance.
  - The surrogacy contract “shall not infringe on the rights of the person acting as surrogate to make all health and welfare decisions regarding the person, the person’s body and the person’s pregnancy throughout the duration of the surrogacy arrangement, including during attempts to become pregnant, pregnancy, delivery and post-partum” or “the right of the person acting as surrogate to autonomy in medical decision making by, including, but not limited to, requiring the person acting as surrogate to undergo a scheduled, nonmedically indicated caesarean section or to undergo multiple embryo transfer.” Any attempted agreement limiting these rights is void and unenforceable. [CT Gen Stat § 46b-524](#).
  - A court cannot enforce an agreement that a person acting as a surrogate “terminate or not terminate a pregnancy, or submit to medical procedures.” [CT Gen Stat §§ 46b-532, 538](#).

- At least one party must be a resident of the state. [CT Gen Stat §§ 46b-523](#).
- If a person acting as a surrogate will be compensated, compensation must be “placed in an escrow account prior to the commencement of any medical procedure, other than medical and mental health evaluations.” [CT Gen Stat §§ 46b-523](#).

## DELAWARE

- Gestational surrogacy contracts can be enforced in court. [13 Del.C. §§ 8-804-805, 807](#). State law does not address whether genetic surrogacy contracts can be enforced in court, but they likely cannot.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [13 Del.C. § 8-807](#).
- Intended parents may enter enforceable gestational surrogacy contracts regardless of whether they are married or unmarried. [13 Del.C. § 8-807](#).
- Single intended parents may enter enforceable gestational surrogacy contracts. [13 Del.C. § 8-807](#).
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - A person acting as a surrogate must be represented by independent counsel of her choosing, and the intended parents must pay for this representation if she requests it.
  - A person acting as a surrogate has the right to choose her healthcare provider but must consult with the intended parents about this choice.
  - A person acting as a surrogate must have health insurance that extends from before an embryo transfer until 8 weeks after the end of the pregnancy. The law does not require intended parents to obtain or pay for this insurance.
  - Surrogacy contracts may require a person acting as a surrogate to undergo all medical exams and treatments recommended by a physician and may also restrict a person acting as a surrogate from engaging in activities that the intended parent or doctor “reasonably believe to be harmful to the pregnancy and future health of the child.” [13 Del.C. §§ 8-806, 8-807](#).
- Non-resident intended parents and non-resident persons acting as surrogates can only enter enforceable surrogacy contracts in Delaware in some circumstances. [13 Del.C. § 8-803](#).
- State law requires payments to persons acting as surrogates to be placed in an escrow before any medical procedures other than evaluations occur. Escrow agents must consent to the jurisdiction of Delaware courts. [13 Del.C. § 8-807](#).

## FLORIDA

- Gestational surrogacy contracts can be enforced in court. [Fla. Stat. §§ 742.15, 63.213](#). At least one intended parent must be a genetic parent to have an enforceable gestational surrogacy contract. [Fla. Stat. § 742.15](#). Genetic surrogacy or surrogacy involving only nongenetic intended parents can be accomplished through a “pre-planned adoption agreement” where a person acting as a surrogate may change her

mind up to 48 hours after birth, an adoption is required, and the agreement may be terminated at any time by any party before the final transfer of custody of the child. [Fla. Stat. § 63.213](#).

- Intended parents may pay for certain living, medical, and other expenses of a person acting as a surrogate. [Fla. Stat. §§ 742.15, 63.213](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried.
- Single intended parents cannot enter enforceable surrogacy contracts. A single parent can use the procedure for a “pre-planned adoption agreement” to engage in either gestational or genetic surrogacy. [Fla. Stat. § 63.213](#).
- State law addresses and limits some of the rights of a person acting as a surrogate:
  - Gestational surrogacy contracts must contain an agreement by the intended parents that the person acting as a surrogate is “the sole source of consent” for management of the pregnancy but also that a person acting as a surrogate must agree to follow reasonable medical instructions and submit to reasonable medical evaluations and treatment. [Fla. Stat. § 742.15](#).
  - Planned pre-adoption agreements, which can be used to accomplish genetic surrogacy, cannot require a person acting as a surrogate to agree to termination of the pregnancy. [Fla. Stat. § 63.213](#).
  - A person acting as a surrogate in a planned pre-adoption agreement, which can be used to accomplish genetic surrogacy, must have independent representation, but the intended parents are not required to pay for it. [Fla. Stat. § 63.213](#).

## GEORGIA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Georgia, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## HAWAII

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Hawaii, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.



## IDAHO

- Validated gestational surrogacy agreements can be enforced in Idaho courts. [I.C. § 7-1604](#). Genetic surrogacy agreements cannot be enforced in Idaho courts. [I.C. § 7-1604\(1\)](#). Agreements must be in writing, the spouse of a married person acting as surrogate must be a party to the agreement, and neither the person acting as surrogate nor their spouse may contribute gametes for use under the agreement. [I.C. § 7-1604\(1\)](#).
- People acting as surrogates may be compensated. [I.C. § 7-1604\(5\)](#). Compensation beyond expenses must be “reasonable.” [I.C. § 7-1605\(4\)\(d\)](#).
- Orders pre-validating a surrogacy agreement and establishing that intended parents will be the legal parents of the resulting child may be sought before birth and *must* be sought no later than seven days of the birth of a child under the terms of the agreement. [I.C. 7-1605\(3\)\(a\)](#). A notice of birth must be filed no later than fourteen days after the birth of the child, and the court shall then issue an order of parentage and direct the filing of a birth certificate naming the intended parent(s) as the parent(s) of the child. [I.C. § 7-1607\(2\)](#). If necessary, the court shall further order that the child be surrendered to the intended parent(s). [I.C. § 7-1607\(2\)](#).
- If a child is born under the terms of an agreement found to be invalid and parentage of the child is disputed, then parentage shall be determined according to other applicable law. [I.C. § 7-1608](#).
- An intended parent may be single. [I.C. § 7-1603\(6\)](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [I.C. § 7-1603\(6\)](#).
- The law does not explicitly authorize same-sex couples to use surrogacy, but the statutory language is gender-neutral. See, e.g., [I.C. § 7-1603\(6\)](#).
- The law requires at least one party to a gestational agreement to have resided in Idaho for at least six months, or “have contacts with the state of Idaho sufficient to justify jurisdiction in the opinion of an Idaho district court.” [I.C. § 7-1605\(2\)](#).
- No medical or mental health consultations are required for intended parents or people acting as surrogates. [I.C. § 7-1604\(b\)\(i-ii\)](#).
- People receiving public assistance may not act as surrogates. [I.C. § 7-1604\(4\)](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - Surrogacy agreements “shall not limit the right of the gestational carrier to make decisions to safeguard her health or that of an embryo or a fetus that she is carrying.” [I.C. § 7-1604\(6\)](#).
  - Persons acting as surrogates and intended parent(s) must have independent legal representation. [I.C. § 7-1604\(7\)](#).
  - Surrogacy agreements must make “adequate provision...for all reasonable health care expenses” [I.C. § 7-1605\(4\)\(c\)](#).
- A gestational agreement may provide for the disclosure of a gamete donor's medical information to a child born according to the terms of the gestational agreement and may describe the circumstances warranting such disclosure. However, if a gamete donor wishes to remain anonymous, only non-identifying medical information may be disclosed pursuant to the gestational agreement. [I.C. § 7-1612](#).

## ILLINOIS

- Gestational surrogacy contracts can be enforced in court. [750 ILCS 47/15](#); [750 ILCS 47/25](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [750 ILCS 47/25](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried, but if an intended parent is married, their spouse is also an intended parent.
- Single intended parents may enter into enforceable gestational surrogacy contracts. [750 ILCS 47/10](#).
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - o A person acting as a surrogate must have independent legal representation and health insurance lasting until 8 weeks after birth, but the law does not require the intended parents to pay for the representation or insurance. [750 ILCS 47/20](#).
  - o A person acting as a surrogate must undergo medical and mental health evaluations. [750 ILCS 47/20](#). Intended parents must also undergo a mental health evaluation. [750 ILCS 47/20](#).
  - o A person acting as a surrogate has the right to use “the services of a physician of her choosing, after consultation with the intended parents, to provide her care during the pregnancy.” Contracts can be enforced in court even if they require the person acting as a surrogate to undergo “all medical exams, treatments, and fetal monitoring procedures that the physician recommended for the success of the pregnancy” or to “abstain from any activities that the intended parent or parents or the physician reasonably believes to be harmful to the pregnancy and future health of the child.” [750 ILCS 47/25](#).
- State law requires compensation paid to a person acting as a surrogate to be placed in an escrow account with an independent agent prior to any medical procedures other than evaluations. [750 ILCS 47/25](#).

## INDIANA

- All surrogacy contracts are prohibited and void and cannot be enforced in court. [IC 31-20-1-2](#). However, there may be some limited circumstances where an intended mother of a child born through gestational surrogacy may be recognized as a parent without an adoption based on case law.
  - o Where an intended mother is a genetic mother, she may be recognized as a parent instead of the person acting as a surrogate. [In re Paternity and Maternity of Infant R.](#), 922 N.E.2d 59.
  - o One court has found that a nongenetic intended mother was a parent based on her marriage to the biological father and his actions treating her as a parent, but only because the person acting as a gestational surrogate did not want to be a parent. [In re Paternity of Infant T.](#), 991 N.E.2d 596, 600–601 (Ind. Ct. App. 2013).



- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Indiana, even though these contracts cannot be enforced in court. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption, even though state law prohibits surrogacy contracts.

## IOWA

- Gestational surrogacy contracts can be enforced in court. [P.M. v. T.B., 907 N.W.2d 522 \(Iowa 2018\)](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- It is not a crime to compensate a person acting as a surrogate beyond reimbursement of expenses. [Iowa Code Ann. § 710.11](#); [P.M. v. T.B., 907 N.W.2d 522 \(Iowa 2018\)](#).
- Most same-sex couples are effectively excluded from entering enforceable surrogacy contracts because both intended parents must be genetic parents for a contract to be enforced in court. However, if one intended parent is a genetic parent, the second intended parent may adopt the child if the intended parents are married. [Iowa Admin. Code r. 641-99.15\(144\)](#).
- Intended parents can enter enforceable gestational surrogacy contracts regardless of whether they are married or unmarried but only if they are both genetic parents. If there are two intended parents and only one is a genetic parent, the parents must be married for the second parent to establish their rights through adoption. [Iowa Admin. Code r. 641-99.15\(144\)](#).
- Single intended parents who are genetic parents may enter enforceable surrogacy contracts. [Iowa Admin. Code r. 641-99.15\(144\)](#).

## KANSAS

- State law does not address whether surrogacy contracts of any kind can be enforced in court. However, there is a 1982 Attorney General Opinion<sup>1</sup> expressing the opinion that genetic surrogacy contracts are void and cannot be enforced in court. XVI Kan. Op. Atty. Gen. 54 (Kan.A.G.), Kan. Atty. Gen. Op. No. 82-150.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses. There is a 1996 Attorney General Opinion expressing the opinion that payment of compensation beyond reimbursement of medical, legal, and living expenses to a person acting as a surrogate, at least for genetic surrogacy, would be a crime. XXX Kan. Op. Atty. Gen. 29 (Kan.A.G.), Kan. Atty. Gen. Op. No. 96-73.
- In practice, people enter gestational surrogacy contracts in Kansas, but an adoption after birth is usually required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

<sup>1</sup> An Attorney General Opinion is just an opinion about what the law might be.

## KENTUCKY

- State law does not address whether gestational surrogacy contracts or uncompensated genetic surrogacy contracts can be enforced in court. State law criminalizes compensated genetic surrogacy contracts; compensated genetic surrogacy contracts are prohibited and void and cannot be enforced in court. [Ky. Rev. Stat. Ann. § 199.590](#). A 1981 Attorney General Opinion<sup>2</sup> expresses the opinion that genetic surrogacy contracts are void and unenforceable regardless of whether they are compensated or uncompensated. 1980-1981 Ky. Op. Atty. Gen. 2-588 (Ky.A.G.), Ky. OAG 81-18, 1981 WL 142305.
- In practice, people enter gestational surrogacy contracts in Kentucky, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

## LOUISIANA

- Uncompensated gestational surrogacy contracts can be enforced in court when both intended parents are genetic parents who are married to each other. [La. Stat. Ann. §§ 9:2720, 9:2720.3, 9:2718.1](#). Contracts must be approved in advance by a court. [La. Stat. Ann. § 9:2720](#). All other surrogacy contracts, including genetic surrogacy contracts, are prohibited and void and cannot be enforced in court. [La. Stat. Ann. §§ 9:2719-20](#).
- A person acting as a gestational surrogate cannot be compensated but the intended parents can reimburse certain expenses. [La. Stat. Ann. §§ 9:2720.5; 9:2718.1](#).
- State law effectively excludes most same-sex couples from entering surrogacy contracts by requiring both intended parents to be genetic parents. [La. Stat. Ann. § 9:2720](#).
- Intended parents may enter enforceable surrogacy contracts only if they are married to each other. [La. Stat. Ann. § 9:2720](#).
- Single intended parents cannot enter enforceable surrogacy contracts. [La. Stat. Ann. § 9:2720](#).
- Both intended parents and a person acting as a surrogate must be residents of Louisiana for 180 days prior to the transfer of an embryo. [La. Stat. Ann. § 9:2720.3](#).
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - Contracts may not require a person acting as a surrogate to have an abortion against her wishes, but the statute does not address her right to have an abortion if the intended parents object. [La. Stat. Ann. § 9:2720](#).
  - The contract must explain how reasonable healthcare and legal expenses will be paid and include an estimate of anticipated expenses and who will pay. [La. Stat. Ann. §§ 9:2720.2; 9:2720.5](#).
  - A person acting as a surrogate must “agree to reasonable medical evaluation and treatment during the term of the pregnancy, to adhere to reasonable medical instructions about prenatal health, and to execute medical records releases . . .

---

<sup>2</sup> An Attorney General Opinion is just an opinion about what the law might be.

in favor of the intended parents.” She must also undergo at least two counseling sessions prior to pregnancy and at least one session after birth within six months. [La. Stat. Ann. § 9:2720.2.](#)

## MAINE

- Gestational surrogacy contracts can be enforced in court. Genetic surrogacy contracts can be enforced in court if the person acting as a surrogate and at least one intended parent are family members. [19-A M.R.S.A. § 1931.](#)
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [19-A M.R.S.A. § 1932.](#)
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [19-A M.R.S.A. § 1932.](#)
- Single intended parents may enter enforceable gestational surrogacy contracts. [19-A M.R.S.A. § 1931.](#)
- State law addresses some of the rights of a person acting as a surrogate:
  - A person acting as a surrogate must have independent legal counsel of her choosing, and the intended parents are required to pay for this representation. [19-A M.R.S.A. § 1931.](#)
  - The intended parents must pay for health care costs not covered by insurance. [19-A M.R.S.A. § 1939.](#)
  - Both a person acting as a surrogate and intended parents must undergo medical evaluations and mental health consultations. [19-A M.R.S.A. § 1931.](#)
  - A person acting as a surrogate “has the right to use the services of a health care provider of her choosing to provide her care during her pregnancy” and “to make decisions to safeguard her health.” [19-A M.R.S.A. § 1932.](#)
- At least one party must be a resident of the state. [19-A M.R.S.A. § 1932.](#)

## MARYLAND

- State law does not address whether surrogacy contracts of any kind can be enforced in court. However, the Maryland high court has allowed a person acting as a gestational surrogate to seek a determination that she is not a parent based on her lack of genetic connection to the child. [In re Roberto d.B., 399 Md. 267, 923 A.2d 115 \(2007\).](#) It is not clear whether Maryland would enforce a gestational surrogacy contract if the person acting as a surrogate opposed enforcement of the contract.
- Maryland’s highest court has explained that compensating a person acting as a surrogate is a crime. [In re Roberto d.B., 399 Md. 267, 923 A.2d 115 \(2007\);](#) see also 85 Md. Op. Atty. Gen. 348 (Md.A.G.), 2000 WL 1922187.

## MASSACHUSETTS

- Gestational surrogacy contracts can be enforced in court, at least where the intended parents are married and both are genetic parents. [\*Hodas v. Morin\*, 442 Mass. 544 \(2004\)](#); [\*Culliton v. Beth Israel Deaconess Medical Center\*, 435 Mass. 285 \(2001\)](#). In practice, however, some surrogacy agencies and attorneys report that intended parents who are not both genetic parents and/or are unmarried are able to get pre-birth orders recognizing them as parents.
- It may be possible to enforce some genetic surrogacy contracts in court. The state high court has refused to enforce a genetic surrogacy contract but noted that such a contract may be enforceable where there was no compensation beyond reimbursement of expenses and a person acting as a surrogate was given a period of time after birth during which she could change her mind. [\*R.R. v. M.H.\*, 426 Mass. 501 \(1998\)](#).
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses, although some surrogacy agencies and attorneys report that persons acting as surrogates are often compensated. The state high court has indicated that reimbursement for expenses may be permissible. [\*R.R. v. M.H.\*, 426 Mass. 501, 512, 689 N.E.2d 790, 797 \(1998\)](#).
- Intended parents and a person acting as a surrogate do not have to be residents of the state if they plan to give birth in a Massachusetts hospital, at least where the intended parents are both genetic parents. [\*Hodas v. Morin\*, 442 Mass. 544, 814 N.E.2d 320 \(2004\)](#); see also [\*Adoption of Daphne\*, 484 Mass. 421, 422, 141 N.E.3d 1284, 1287 \(2020\)](#).

## MICHIGAN

- Gestational surrogacy agreements can be enforced in Michigan courts. [\*M.C.L.A. § 722.1909\*](#). Genetic surrogacy agreements cannot be enforced in Michigan courts; parentage of a genetic child of an individual who agreed to be a surrogate will be determined under general Michigan law. [\*M.C.L.A. § 722.1906\(3\)\*](#).
- People acting as surrogates may receive “payment of compensation, support, and reasonable expenses,” and may be reimbursed for specific agreed-upon expenses if the agreement is terminated. [\*M.C.L.A. §§ 722.1903\(2\)\(a\)-\(b\)\*](#).
- Gestational surrogacy agreements which substantially comply with statutory requirements are enforceable in Michigan. [\*M.C.L.A. § 722.1909\(1\)\*](#). Court orders may be sought and issued before or after birth. [\*M.C.L.A. § 722.1908\(1\)\*](#). However, the court must stay enforcement of the order or judgment until the birth of the child. [\*M.C.L.A. § 722.1908\(2\)\*](#).
- Courts will determine parentage of children born under non-compliant agreements “consistent with the intent of the parties, taking into account the best interests of the child.” [\*M.C.L.A. § 722.1909\(2\)\*](#).
- Single intended parents may enter enforceable gestational surrogacy contracts. See, e.g., [\*M.C.L.A. §§ 722.1901\(2\)\(c\)\*](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. See, e.g., [\*M.C.L.A. §§ 722.1904\(2\)\*](#).

- The law does not explicitly authorize same-sex couples to use surrogacy, but the statutory language is gender-neutral. See, e.g., [M.C.L.A. § 722.1901\(2\)](#).
- People acting as surrogates must complete medical and mental health evaluations. [M.C.L.A. §§ 722.1901\(1\)\(c\)-\(d\)](#).
- Intended parents must complete mental health evaluations. [M.C.L.A. §§ 722.1901\(2\)\(b\)](#).
- No party need be a Michigan resident if the birth will occur or be anticipated to occur in Michigan, or if assisted reproduction will occur in Michigan. [M.C.L.A. §§ 722.1902\(a\)\(i\)-\(iii\)](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - o No agreement may limit a person's reproductive rights under the Michigan state constitution, including the right to abortion. [M.C.L.A. § 722.1903\(1\)\(g\)](#).
  - o Agreements must permit people acting as surrogates to use a health care practitioner of their choosing and to make all health and welfare decisions regarding their care and the pregnancy, including whether to consent to a cesarean section or multiple embryo transfer. [M.C.L.A. §§ 722.1903\(1\)\(g\)-\(h\)](#).
  - o People acting as surrogates and the intended parent(s) must have independent legal representation throughout negotiation, execution, and the duration of the agreement. [M.C.L.A. § 722.1901\(1\)\(e\)](#); [M.C.L.A. § 722.1901\(2\)\(c\)](#).
    - The intended parent(s) must pay for independent legal representation for the person acting as surrogate. [M.C.L.A. 722.1902\(f\)](#).
    - The intended parent or parents must cover the assisted reproduction expenses and the medical expenses of the person acting as surrogate and the child. [M.C.L.A. §§ 722.1903\(1\)\(f\)](#).
  - o Specific performance is not a remedy available for breach by a surrogate of a provision in the agreement that the surrogate be impregnated, terminate a pregnancy, or submit to medical procedures. [M.C.L.A. 722.1909\(5\)](#).

## MINNESOTA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Minnesota, but an adoption after birth may be required. Courts have allowed some surrogacy contracts to be enforced in some situations and prohibited the enforcement of others.<sup>3</sup>

<sup>3</sup> These unpublished cases do not create a precedent that applies to other cases.

- o At least one court has allowed a gestational surrogacy contract to be enforced where the parties had agreed that the law of another state should be applied by the court. [\*In re Paternity & Custody of Baby Boy A.\*, No. A07-452, 2007 WL 4304448 \(Minn. Ct. App. Dec. 11, 2007\).](#)
- o At least one court has ruled that a genetic surrogacy contract is unenforceable. [\*A.L.S. ex rel. J.P. v. E.A.G.\*, 2010 WL 4181449 \(Minn. Ct. App. 2010\).](#)

## MISSISSIPPI

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Mississippi, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## MISSOURI

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Missouri, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## MONTANA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Montana, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## NEBRASKA

- State law does not address whether uncompensated surrogacy contracts of any kind can be enforced in court. All compensated surrogacy contracts are void and cannot be enforced in court. [\*Neb. Rev. Stat. § 25-21,200.\*](#)
- In practice, people enter uncompensated surrogacy contracts in Nebraska, but an adoption after birth is usually required.



## NEVADA

- Gestational surrogacy contracts can be enforced in court. [Nev. Rev. Stat. Ann. §§ 126.710, 126.720, 126.740](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [Nev. Rev. Stat. Ann. §§ 126.750](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [Nev. Rev. Stat. Ann. § 126.720](#).
- A single intended parent may enter enforceable gestational surrogacy contracts. [Nev. Rev. Stat. Ann. § 126.720](#).
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - o The person acting as a surrogate must have independent counsel of her choosing, but the intended parents are not required to pay for the representation. [Nev. Rev. Stat. Ann. §§ 126.740, 126.750](#).
  - o The person acting as a surrogate must use “the services of a physician of her choosing, after consultation with the intended parent or parents.” [Nev. Rev. Stat. Ann. § 126.750](#).
  - o Contracts can be enforced in court even if they require the person acting as a surrogate to undergo all medical exams, treatments, and monitoring recommend by her doctor and that she “abstain from any activities that the intended parent or parents or the physician providing care to the gestational carrier during the pregnancy reasonably believes to be harmful to the pregnancy and the future health of any resulting child.” [Nev. Rev. Stat. Ann. § 126.750](#).
- There is no residency requirement if the child was born in the state or anticipated to be born in the state, if the contract was entered in the state, or the assisted reproduction procedures occurred in the state. [Nev. Rev. Stat. Ann. § 126.720](#).

## NEW HAMPSHIRE

- Gestational surrogacy contracts can be enforced in court. [N.H. Rev. Stat. §§ 168-B:5, 168-B:7, 168-B:10](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [N.H. Rev. Stat. §§ 168-B:1, 168-B:11](#).
- A person acting as a genetic surrogate may be compensated beyond reimbursement of expenses if: (1) there are two IPs, (2) the IPs are married, (3) one IP is a genetic parent, and (4) the non-genetic IP plans to adopt the child. [N.H. Rev. Stat. §§ 5-C:29; 170-B:2; 170-B:13](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [N.H. Rev. Stat. §§ 168-B:1, 168-B:7](#).
- Single intended parents may enter enforceable surrogacy contracts. [N.H. Rev. Stat. §§ 168-B:1, 168-B:7](#).
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - A person acting as a surrogate must be represented by independent counsel of her choosing, but the intended parents are not required to pay for this representation. [N.H. Rev. Stat. § 168-B:9](#).
  - If a person acting as a surrogate breaches the contract or a legal requirement of surrogacy and this results in harm to the resulting child, she may be liable for child's medical expenses not covered by insurance. [N.H. Rev. Stat. § 168-B:11, 168-B:18](#).
  - The contract must address how decisions about abortion should be made but does not say that the person acting as a surrogate has the right to make this choice. [N.H. Rev. Stat. § 168-B:11](#).
- Non-resident intended parents and non-resident persons acting as surrogates can enter enforceable surrogacy contracts if the child was born in the state or is anticipated to be born in the state. [N.H. Rev. Stat. § 168-B:1](#).

## NEW JERSEY

- Gestational surrogacy contracts can be enforced in court. [N.J.S.A. 9:17-63, 9:17-64](#). Genetic surrogacy contracts cannot be enforced in court. [Matter of Baby M., 109 N.J. 396, 537 A.2d 1227 \(1988\)](#).
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [N.J.S.A. 9:17-65](#). A person acting as a genetic surrogate may not be compensated beyond reimbursement of expenses. [Matter of Baby M., 109 N.J. 396, 537 A.2d 1227 \(1988\)](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [N.J.S.A. 9:17-62](#).
- Single intended parents may enter enforceable surrogacy contracts. [N.J.S.A. 9:17-62](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:

- o A person acting as a surrogate (and her spouse, if any) must have a consultation with independent legal counsel of their choosing, but the intended parents are not required to pay for this representation. [N.J.S.A. 9:17-64, 9:17-65.](#)
- o A person acting as a surrogate and the intended parents must complete a “psychological evaluation.” [N.J.S.A. 9:17-64.](#)
- o A person acting as a surrogate has a right to choose her medical care provider, but she must notify the intended parents of her choice. [N.J.S.A. 9:17-65.](#)
- o The intended parents must pay for certain medical, mental health counseling, and living expenses of a person acting as a surrogate unless she specifically waives this right. [N.J.S.A. 9:17-65.](#)

## NEW MEXICO

- State law does not address whether surrogacy contracts of any kind can be enforced in court. [N.M. Stat. Ann. § 40-11A-801.](#)
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in New Mexico, but an adoption after birth may be required.

## NEW YORK

- Gestational surrogacy contracts can be enforced in court. [NY Family Court Act §§ 581-203, 581-401, 581-406.](#) Genetic surrogacy contracts are prohibited and void and cannot be enforced in court. [NY Family Court Act § 581-401, 581-402.](#)
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [NY Family Court Act § 581-401.](#)
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [NY Family Court Act § 581-402.](#)
- Single intended parents may enter enforceable surrogacy contracts. [NY Family Court Act § 581-402.](#)
- State law addresses and protects many of the rights of a person acting as a gestational surrogate:
  - o A person acting as a surrogate must give informed consent after being informed of medical, psychological, and psychosocial risks. [NY Family Court Act § 581-402.](#)
  - o The intended parents must pay for the following benefits, although a person acting as a surrogate who receives no compensation may waive these rights. [NY Family Court Act § 581-402.](#)
    - A person acting as a surrogate must be represented by independent counsel of her choosing,
    - Comprehensive health insurance lasting until 12 months after birth,
    - Life insurance of at least \$750,000, or the maximum benefit she qualifies for lasting until 12 months after birth,

- If a person acting as a surrogate requests it, disability insurance, and
- Counseling at any point at the request of a person acting as a surrogate. [NY Family Court Act § 581-402](#).
- o The contract “must permit the person acting as surrogate to make all health and welfare decisions regarding themselves and their pregnancy including but not limited to, whether to consent to a cesarean section or multiple embryo transfer.” Any provision that tries to limit these rights is void and unenforceable. A person acting as a surrogate retains her rights to determine whether or not to have an abortion. [NY Family Court Act § 581-402](#), [581-602](#).
- o A person acting as a surrogate has a right to choose her own health care practitioner. [NY Family Court Act § 581-402](#).
- o A person acting as a surrogate cannot be compelled to comply with the terms of the contract (other than to transfer custody of the child). [NY Family Court Act § 581-409](#).
- A person acting as a surrogate and at least one intended parent must be a U.S. citizen or lawful permanent resident and a New York resident for at least six months prior to entering the contract. [NY Family Court Act §§ 581-203](#), [581-402](#).
- Compensation and anticipated expense reimbursements must be placed in escrow prior to beginning any medical procedures. [NY Family Court Act § 581-102](#), [581-402](#).

## NORTH CAROLINA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in North Carolina, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## NORTH DAKOTA

- State law provides that surrogacy contracts are void and cannot be enforced in court. However, when two intended parents are both genetic parents, they are the only parents of a child born through gestational surrogacy. [N.D. Cent. Code Ann. § 14-18-01](#), [14-18-08](#). A person acting as a surrogate is a parent in all other surrogacy arrangements. [N.D. Cent. Code Ann. § 14-18-05](#). Non-genetic intended parents using surrogacy may be able to become parents through adoption.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses. The intended parents must pay for all pregnancy and birth-related expenses of a person acting as a surrogate who conceived through assisted reproduction, even though all surrogacy contracts are void and cannot be enforced in court. [N.D. Cent. Code Ann. § 14-18-09](#).

- Intended parents who are genetic parents through surrogacy are recognized as parents regardless of whether they are married or unmarried. [N.D. Cent. Code Ann. § 14-18-01, 14-18-08.](#)
- Most same-sex couples are effectively excluded from becoming parents through surrogacy without an adoption because both parents must be genetic parents to be considered parents of a child born through surrogacy. [N.D. Cent. Code Ann. § 14-18-01, 14-18-08.](#)
- Single parents cannot have a child through surrogacy without the person acting as a surrogate also being legally recognized as a parent unless and until an adoption is completed. [N.D. Cent. Code Ann. § 14-18-01, 14-18-08.](#)

## OHIO

- Gestational surrogacy contracts can be enforced in court. [J.F. v. D.B., 2007-Ohio-6750, 879 N.E.2d 740;](#) [S.N. v. M.B., 2010-Ohio-2479, 935 N.E.2d 463.](#) State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [J.F. v. D.B., 2007-Ohio-6750, 879 N.E.2d 740;](#) [S.N. v. M.B., 2010-Ohio-2479, 935 N.E.2d 463.](#)
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [S.N. v. M.B., 2010-Ohio-2479, 935 N.E.2d 463.](#)
- Single intended parents may enter enforceable surrogacy contracts. [J.F. v. D.B., 2007-Ohio-6750, 879 N.E.2d 740.](#)

## OKLAHOMA

- Gestational surrogacy contracts can be enforced in court. [10 Okl.St. Ann. § 557.11.](#) State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [10 Okl.St. Ann. § 557.6, 557.17.](#)
- Intended parents may enter enforceable surrogacy contracts only if they are married to each other. If an intended parent is married, both spouses must be parties to the contract. [10 Okl.St. Ann. § 557.2, 557.3, 557.5.](#)
- Single intended parents may enter enforceable surrogacy contracts. [10 Okl.St. Ann. § 557.2, 557.3](#)
- State law addresses and limits some of the rights of a person acting as a gestational surrogate:
  - o A person acting as a surrogate, and her spouse if any, must be represented by independent legal counsel of her choosing, but the intended parents are not required to pay for this representation. [10 Okl.St. Ann. § 557.6.](#)
  - o A person acting as a surrogate must be informed of potential medical and psychological health risks. [10 Okl.St. Ann. § 557.6.](#)
  - o The contract may require a person acting as a surrogate to undergo all medical treatments, exams, and monitoring recommended by her doctor and

to avoid “any activities that the intended parents or the physician providing care to the gestational carrier during the pregnancy reasonably believe to be harmful to the pregnancy or the future health of any resulting child.” These provisions can be enforced in court. [10 Okl.St.Ann. § 557.6](#).

- A person acting as a surrogate must be a resident of Oklahoma for at least 90 days prior to entering the contract. [10 Okl.St.Ann. § 557.4](#).

## OREGON

- State law does not address whether surrogacy contracts of any kind can be enforced in court. A 1989 Attorney General Opinion expresses the opinion that genetic surrogacy contracts cannot be enforced in court. 46 Or. Op. Atty. Gen. 221 (Or.A.G.), 1989 WL 439814.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Oregon, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

## PENNSYLVANIA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in Pennsylvania, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption. See [In re Baby S., 2015 PA Super 244, 128 A.3d 296, 298 \(2015\)](#).

## RHODE ISLAND

- Gestational surrogacy contracts can be enforced in court. Genetic surrogacy contracts can be enforced in court if the person acting as a surrogate and at least one intended parent are family members. All the same requirements apply to gestational and genetic surrogacy contracts. [15 R.I. Gen. Laws Ann. § 15-8.1-802](#).
- A person acting as a surrogate may be compensated beyond reimbursement of expenses. [15 R.I. Gen. Laws Ann. § 15-8.1-802](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [15 R.I. Gen. Laws Ann. § 15-8.1-801](#).



- Single intended parents may enter enforceable surrogacy contracts. [15 R.I. Gen. Laws Ann. § 15-8.1-801.](#)
- At least one of the intended parents must be a resident of the U.S. [15 R.I. Gen. Laws Ann. § 15-8.1-802.](#)
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - o A person acting as a surrogate must be represented by independent legal counsel of her choosing, and the intended parents are required to pay for this representation. [15 R.I. Gen. Laws Ann. § 15-8.1-801.](#)
  - o A person acting as a surrogate has a right to choose her own health care provider. [15 R.I. Gen. Laws Ann. § 15-8.1-802.](#)
  - o The intended parents must pay for any healthcare costs not covered by insurance. [15 R.I. Gen. Laws Ann. § 15-8.1-809.](#)
  - o A person acting as a surrogate and the intended parents must undergo medical evaluations and mental health consultations. [15 R.I. Gen. Laws Ann. § 15-8.1-801.](#)
  - o A person acting as a surrogate has the right to “make all health and welfare decisions regarding the gestational carrier’s health and pregnancy, including, but not limited to, whether to consent to a caesarean section or multiple embryo transfer” and retains her right to choose whether or not to have an abortion. [15 R.I. Gen. Laws Ann. § 15-8.1-802.](#)

## **SOUTH CAROLINA**

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in South Carolina, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

## **SOUTH DAKOTA**

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- State law does not address whether a person acting as a surrogate can be compensated beyond reimbursement for expenses.
- In practice, people enter gestational surrogacy contracts in South Dakota, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that where there are two intended parents who are genetic parents, it may be possible to get a court order recognizing them as parents without an adoption.

## TENNESSEE

- Genetic surrogacy contracts can be enforced in court if 1) the contract is not in conflict with the best interests of the child, and 2) a person acting as a surrogate agrees to termination of her parental rights after birth or her rights are involuntarily terminated by a court based on unfitness. Gestational surrogacy contracts can likely also be enforced in court. A person acting as a gestational surrogate may not need to be given a period of time to change her mind after birth, at least where the intended parents are married and are both genetic parents. [In re Baby, 447 S.W.3d 807 \(Tenn. 2014\)](#); [Tenn. Code Ann. § 36-1-102 \(51\)\(A\)](#).
- It is not clear whether intended parents must be married to each other to enter enforceable surrogacy contracts.
- It is not clear whether single intended parents cannot enter enforceable surrogacy contracts.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of specific expenses (legal, medical, and mental health services, and living expenses), but payment cannot be contingent on surrender of custody of the child or termination of the rights of a person acting as a surrogate. [In re Baby, 447 S.W.3d 807 \(Tenn. 2014\)](#).

## TEXAS

- Gestational surrogacy contracts can be enforced in court. [Tex. Fam. Code Ann. § 160.752-754](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- State law does not address whether people acting as surrogates can be compensated beyond reimbursement for expenses. The law says that intended parents may pay for all reasonable health care costs. [Tex. Fam. Code Ann. § 160.756](#).
- Intended parents must be married to each other to enter enforceable surrogacy contracts. [Tex. Fam. Code Ann. § 160.754](#).
- Same-sex spouses may enter enforceable surrogacy contracts. [Tex. Fam. Code Ann. § 160.756](#).
- Single intended parents cannot enter enforceable surrogacy contracts. [Tex. Fam. Code Ann. § 160.754](#); [In In re M.M.M., 428 S.W.3d 389 \(Tex. App. Houston 14th Dist. 2014\)](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - A person acting as a surrogate must be informed about potential medical and mental health risks by the physician. [Tex. Fam. Code Ann. § 160.754](#).
  - A contract “may not limit the right of the gestational mother to make decisions to safeguard her health or the health of an embryo.” [Tex. Fam. Code Ann. § 160.754](#).
- A person acting as a surrogate or the intended parents must be residents of Texas for 90 days prior to filing a petition with a court to validate a gestational surrogacy contract. [Tex. Fam. Code Ann. § 160.755](#).

## UTAH

- Gestational surrogacy contracts can be enforced in court. [Utah Code Ann. § 78B-15-801](#). At least one intended parent must be a genetic parent. [Utah Code Ann. § 78B-15-801](#). State law does not address whether genetic surrogacy contracts can be enforced in court.
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses. [Utah Code Ann. § 78B-15-803](#), [78B-15-808](#).
- Intended parents must be married to each other to enter an enforceable surrogacy contract, and the Utah Supreme Court has ruled that this includes same-sex spouses. [Utah Code Ann. § 78B-15-801](#); [In re Gestational Agreement, 2019 UT 40, 449 P.3d 69](#).
- Single intended parents cannot enter enforceable surrogacy contracts. [Utah Code Ann. § 78B-15-801](#).
- State law addresses some of the rights of a person acting as a gestational surrogate:
  - The contract “may not limit the right of the gestational mother to make decisions to safeguard her health or that of the embryo or fetus.” [Utah Code Ann. § 78B-15-808](#).
- A person acting as a surrogate or the intended parents must be residents of Utah for at least 90 days prior to filing a proceeding to validate a contract. [Utah Code Ann. § 78B-15-801](#).

## VERMONT

- Gestational surrogacy contracts can be enforced in court. Genetic surrogacy contracts can be enforced in court if the person acting as a surrogate and at least one intended parent are family members. All the same requirements apply to gestational and genetic surrogacy contracts. [15C V.S.A. § 801](#).
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [15C V.S.A. § 802](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [15C V.S.A. § 801](#).
- Single intended parents may enter enforceable surrogacy contracts. [15C V.S.A. § 801](#).
- State law addresses some of the rights of a person acting as a surrogate:
  - A person acting as a surrogate must have independent legal counsel of her choosing, and the intended parents are required to pay for this representation. [15C V.S.A. § 801](#).
  - Both a person acting as a surrogate and the intended parents must undergo a medical evaluation. [15C V.S.A. § 801](#).
  - A person acting as a surrogate has “the right to use the services of a health care provider or providers of [her] choosing to provide care during the pregnancy.” [15C V.S.A. § 802](#).
  - The contract must allow a person acting as a surrogate “to make all health and welfare decisions regarding [her] health and pregnancy, and shall not enlarge or diminish [her] right to terminate the pregnancy.” [15C V.S.A. § 802](#).

- o The intended parents must pay for all healthcare costs not covered by insurance. [15C V.S.A. § 809.](#)
- At least one party must be a resident of the state. [15C V.S.A. § 802.](#)

## VIRGINIA

- Gestational and genetic surrogacy contracts can be enforced in court in a number of circumstances:
  - o A person acting as a gestational or genetic surrogate can agree to give up her rights on or after the fourth day after the child is born, or the parties can go through a lengthy court pre-approval process. [VA Code Ann. § 20-158, 20-159, 20-162.](#)
  - o Genetic surrogacy contracts can be enforced in court, but a person acting as a genetic surrogate may terminate the contract within 180 days of conception. Termination of the contract results in the person acting as a genetic surrogate and her spouse, if any, being parents. [VA Code Ann. § 20-158, 20-161.](#)
- Compensation beyond reimbursement of expenses is not permitted. [VA Code Ann. § 20-160, 20-162.](#)
- Intended parents may only enter an enforceable surrogacy contract if they are married. [VA Code Ann. § 20-156](#) . Unmarried intended parents who are both genetic parents may still be able to be recognized as parents through other laws.
- Same-sex spouses may enter enforceable surrogacy contracts. [VA Code Ann. § 20-160, 20-162.](#)
- Single intended parents may enter enforceable surrogacy contracts. [VA Code Ann. § 20-156.](#)
- State law addresses some of the rights of a person acting as a surrogate:
  - o A contract must address how expenses will be paid and guarantee payment through escrow, cash, or bonds. [VA Code Ann. § 20-160.](#)
  - o A person acting as a “surrogate shall be solely responsible for the clinical management of the pregnancy.” [VA Code Ann. § 20-163.](#)

## WASHINGTON

- Gestational and genetic surrogacy contracts can be enforced in court. A person acting as a genetic surrogate may change her mind up to 48 hours after birth. [RCWA 26.26A.700, et seq.](#)
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [RCWA 26.26A.715.](#)
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [RCWA 26.26A.705.](#)
- Single intended parents may enter enforceable surrogacy contracts. [RCWA 26.26A.705.](#)
- State law addresses and protects many of the rights of a person acting as a surrogate:

- o A person acting as a surrogate must have independent legal counsel of her choosing, and the intended parents are required to pay for this representation. [RCWA 26.26A.705](#), [26.26A.710](#).
- o Both a person acting as a surrogate and the intended parents must undergo a medical evaluation and mental health consultation. [RCWA 26.26A.705](#).
- o The contract must address how the intended parents will pay for the costs of surrogacy, including health care for the person acting as a surrogate and the child. [RCWA 26.26A.715](#).
- o The contract “must permit the woman acting as a surrogate to make all health and welfare decisions regarding herself and her pregnancy.” The statute explicitly “does not diminish the right of the woman acting as a surrogate to terminate her pregnancy.” [RCWA 26.26A.715](#).
- At least one party must be a resident of the state, or a medical evaluation or procedure or mental health consultation must occur in the state. [RCWA 26.26A.710](#).

## WEST VIRGINIA

- State law does not address whether surrogacy contracts of any kind can be enforced in court.
- It is not a crime to pay “fees and expenses” related to a surrogacy contract. [W. Va. Code Ann. § 61-2-14h \(e\)\(3\)](#).
- In practice, people enter gestational surrogacy contracts in West Virginia, but an adoption after birth may be required. Some surrogacy agencies and attorneys report that some intended parents are able to get a court order recognizing them as parents without an adoption.

## WISCONSIN

- Gestational and genetic surrogacy contracts can be enforced in court if the court determines the contract is in the best interest of the child. A surrogacy contract cannot require the person acting as a surrogate to terminate her parental rights against her wishes, at least for a person acting as a genetic surrogate. [In re F.T.R., 2013 WI 66, 349 Wis. 2d 84, 833 N.W.2d 634](#).
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [In re F.T.R., 2013 WI 66, 349 Wis. 2d 84, 833 N.W.2d 634](#).

## WYOMING

- Gestational surrogacy contracts can be enforced in court. [WY ST § 35–1–401](#).
- A person acting as a gestational surrogate may be compensated beyond reimbursement of expenses, but compensation is limited to “expenses related to prenatal care, delivery of the child and any other costs including the cost of lost opportunity that are directly connected to the pregnancy.” [WY ST § 35–1–401](#).

- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [WY ST § 35-1-401](#).
- State law says that intended parents of a child born through surrogacy will be “the mother and father of the child,” but it is not clear if same-sex couples would be prohibited entering an enforceable surrogacy contract. [WY ST § 35-1-410](#).
- Single intended parents cannot enter enforceable surrogacy contracts. [WY ST § 35-1-401](#).
- Intended parents must be residents of Wyoming for at least a year before entering a surrogacy contract. [WY ST § 35-1-401](#).

## DISTRICT OF COLUMBIA

- Gestational and genetic surrogacy contracts can be enforced in court, but for genetic surrogacy contracts, either the intended parents or the person acting as a genetic surrogate can change their minds up to 48 hours after birth. [DC ST §§ 16-404](#), [16-407](#), [16-411](#).
- A person acting as a gestational or genetic surrogate may be compensated beyond reimbursement of expenses. [DC ST §§ 16-401](#), [16-406](#).
- Intended parents may enter enforceable surrogacy contracts regardless of whether they are married or unmarried. [DC ST § 16-401](#).
- Single intended parents may enter enforceable surrogacy contracts. [DC ST § 16-403](#).
- State law addresses some of the rights of a person acting as a surrogate:
  - A person acting as a surrogate must be represented by independent counsel of her choosing, but the intended parents are not required to pay for this representation. [DC ST § 16-406](#).
  - Contracts must provide that a person acting as a surrogate “shall maintain control and decision-making authority over the surrogate’s body” and “may not limit the right of the surrogate to make decisions to safeguard the surrogate’s health or that of the embryo or fetus.” [DC ST § 16-406](#).
- One of the parties must be a resident of D.C. or live in D.C. for one year, unless the child was born in D.C. [DC ST § 16-407](#).