

House Bills 5207, 5210, 5212, and 5214 (Substitute H-1 as reported without amendment)
House Bills 5208, 5209, 5211, 5213, and 5215 (as reported without amendment)

Sponsor: Representative Samantha Steckloff (H.B. 5207)
Representative Christine Morse (H.B. 5208)
Representative Kelly Breen (H.B. 5209)
Representative Jason Hoskins (H.B. 5210)
Representative Jennifer Conlin (H.B. 5211)
Representative Jason Morgan (H.B. 5212)
Representative Penelope Tsernoglou (H.B. 5213)
Representative Laurie Pohutsky (H.B. 5214)
Representative Amos O'Neal (H.B. 5215)

House Committee: Judiciary

Senate Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

House Bill 5207 (H-1) would enact the "Assisted Reproduction and Surrogacy Parentage Act" to do the following:

- Prescribe the process to establish a parent-child relationship for individuals who used assisted reproduction methods.
- Allow a party to request the court to seal records under the Act to the public and specify that sealed records could only be available for inspection through a court order or request by the child of the party.
- Allow an individual who was an intended parent or individual who gave birth to a child through assisted reproduction to adjudicate parentage in the family division of a circuit court.
- Prescribe the process to determine parentage if an intended parent of a child conceived by assisted reproduction or surrogacy died during the process.
- Prescribe the eligibility requirements for the parties of a surrogacy agreement, including that all parties be at least 21 years old and undergo a mental health consultation, among other requirements.
- Prescribe surrogacy agreement minimum standards, including that at least one party in a surrogacy agreement be a resident of the State or that the birth and assisted reproduction occur within the State.
- Allow for the termination of a surrogacy agreement before the transfer of a gamete (sperm or egg) or an embryo, or, if a transfer failed to result in pregnancy, before another transfer.

House Bill 5208 would amend Part 28 (Vital Records) of the Public Health Code to do the following:

- Require the State Registrar to establish a new birth certificate upon a judgment or a parentage judgment under the "Assisted Reproduction and Surrogacy Parentage Act" as proposed by House Bill 5207 (H-1).
- Prescribe a \$50 fee to establish the new birth certificate.
- Decrease, from 2.0 million to 1.5 million, the population size required for a county to be permitted to charge a fee greater than those of the Code.

House Bill 5209 would delete sentencing guidelines in the Code of Criminal Procedure for felony violations of the Surrogacy Parenting Act, which would be repealed under House Bill 5207 (H-1).

House Bill 5210 (H-1) would amend the Estates and Protected Individuals Code (EPIC) to do the following:

- Specify that a child conceived by assisted reproduction or a surrogacy agreement under the proposed "Assisted Reproduction and Surrogacy Parentage Act" would be considered the child of the parents or intended parents.
- Delete language establishing the assumption of parentage of a child born to married parents.

House Bill 5211 would amend the Paternity Act to prohibit the parentage of a child conceived through assisted reproduction or a surrogacy act as prescribed by the "Assisted Reproduction and Surrogacy Parentage Act" from being determined under the Paternity Act.

House Bill 5213 and House Bill 5215 would amend the Summary Support and Paternity Act and the Genetic Parentage Act, respectively, to prohibit the Acts from being used to determine the parentage of a child conceived through assisted reproduction or a surrogacy act that complied with the "Assisted Reproduction and Surrogacy Parentage Act".

House Bill 5212 (H-1) would amend the Revocation of Paternity Act do the following:

- Rename the Act from the Revocation of *Paternity* Act to the Revocation of *Parentage* Act.
- Specify that an action concerning parentage could not be brought under the Act if the child were conceived in compliance with the "Assisted Reproduction and Surrogacy Parenting Act".
- Prohibit genetic testing from being used to challenge the parentage of a parent or donor who complied with the "Assisted Reproduction and Surrogacy Parenting Act".
- Modify factors a court could consider when determining that a parentage determination order would not be in the best interests of a child.

House Bill 5214 (H-1) would amend the Acknowledgement of Parentage Act to modify conditions under which an individual would be considered the parent of a child in cases of assisted reproduction and surrogacy.

House Bill 5207 (H-1) would repeal the Surrogate Parenting Act, which prohibits surrogate parentage contracts for compensation and specifies that a contract would be void and unenforceable as contrary to public policy.

House Bill 5207 is tie-barred to House Bills 5208 through 5215. House Bills 5208 through 5215 are each tie-barred to House Bill 5207. House Bill 5210 also is tie-barred to House Bill 5212. Each bill would take effect 90 days after its enactment.

MCL 333.2822 et al. (H.B. 5208)
777.15g (H.B. 5209)
700.2114 et al. (H.B. 5211)
722.1431 et al. (H.B. 5212)
722.1493 (H.B. 5213)
722.1002 et al. (H.B. 5214)
722.1465 (H.B. 5215)

BRIEF RATIONALE

Currently, altruistic surrogacy is the only form of legal surrogacy in the State. Individuals participating in contracted, compensated surrogacy agreements face a misdemeanor punishable by a maximum civil fine of \$10,000 or a maximum of one year's imprisonment, or both. According to testimony, many individuals have a desire to grow their families but are unable to do so naturally and have limited options available. Accordingly, legalizing surrogacy contracts has been suggested to improve reproductive freedom and create legal protections for all involved parties.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

House Bill 5207 (H-1), 5211, 5212 (H-1), and 5215 would have a minimal fiscal impact on the Department of Health and Human Services (DHHS) and local units of government. Eliminating barriers for surrogacy and assisted reproduction would mean there would no longer be the need for families to use the adoption process as an alternative route. This would take some burden off the of the State's child welfare system, though the magnitude of these cases and cost is relatively small. The bill would eliminate the penalties for entering into surrogacy agreements, and the fiscal impact of this would depend on how often counties were enforcing this penalty and the loss of that revenue.

House Bill 5208 would have an indeterminate, but likely minor, fiscal impact on the DHHS and local units of government. Currently, the application for the creation of a new certificate of birth is \$50, and is allowable in cases of adoption, legal change of name for minors, acknowledgement of parentage, sex change, legitimation, order of filiation, a request to replace a court filed certificate of adoption, or to correct obvious minor errors and omissions. The bill would add a judgement or parentage judgment under the "Assisted Reproduction and Surrogacy Parentage Act". Any increase in revenue would depend on the number of requests for a new certificate of birth using a judgement or parentage judgement under the "Assisted Reproduction and Surrogacy Parentage Act" as necessary documentation. To the extent that some children born to surrogates may previously have gone through the adoption process, there could be a reduction in requests for a new birth certificate using documentation of adoption as the reason for a request. This would potentially offset any revenue from an increase in applications for a new certificate of birth using a judgement or parentage judgement under the "Assisted Reproduction and Surrogacy Parentage Act" as necessary documentation.

House Bill 5209 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

House Bill 5210 would have no fiscal impact on State or local government.

House Bill 5207 (H-1) and House Bills 5212 (H-1) through 5214 (H-1) would have no measurable fiscal impact on State or local courts.

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Bill Analysis @ www.senate.michigan.gov/sfa

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