

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0057.01 Brita Darling x2241

**HOUSE BILL 21-1022**

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**HOUSE SPONSORSHIP**

**Froelich,**

**SENATE SPONSORSHIP**

**Ginal,**

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**House Committees**  
Health & Insurance

**Senate Committees**

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**A BILL FOR AN ACT**  
101     **CONCERNING THE PROTECTION OF PARTIES THROUGH THE**  
102     **ENFORCEMENT OF PROPER SURROGACY AGREEMENTS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill creates the "Colorado Surrogacy Agreement Act" (act) in article 4.5 of title 19, Colorado Revised Statutes. The act:

- Establishes eligibility requirements for entering into surrogacy agreements (agreements) and required elements of agreements;
- Contains provisions governing the termination of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

agreements and the effect of a death or a change in marital status of any of the parties to such agreements;

- Authorizes court orders recognizing and enforcing agreements;
  - Specifies the duties of persons under agreements;
  - Authorizes court orders determining parentage; and
  - Creates new definitions for agreements.

1      *Be it enacted by the General Assembly of the State of Colorado:*

2                   **SECTION 1.** In Colorado Revised Statutes, **add** article 4.5 to title  
3                   19 as follows:

## ARTICLE 4.5

## Colorado Surrogacy Agreement Act

**19-4.5-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 4.5 IS  
THE "COLORADO SURROGACY AGREEMENT ACT".

8                   **19-4.5-102. Legislative declaration.** (1) THE GENERAL  
9                   ASSEMBLY FINDS AND DECLARES THAT SURROGACY AGREEMENTS  
10                  EXECUTED PURSUANT TO THIS ARTICLE 4.5 ARE IN ACCORD WITH THE  
11                  PUBLIC POLICY OF THIS STATE.

12 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT  
13 THE PURPOSE OF THIS ARTICLE 4.5 IS TO:

14 (a) ESTABLISH CONSISTENT STANDARDS AND PROCEDURAL  
15 SAFEGUARDS TO PROMOTE THE BEST INTERESTS OF THE CHILDREN WHO  
16 ARE BORN AS A RESULT OF SURROGACY AGREEMENTS EXECUTED  
17 PURSUANT TO THIS ARTICLE 4.5:

18 (b) PROTECT ALL PARTIES INVOLVED IN SURROGACY AGREEMENTS  
19 EXECUTED PURSUANT TO THIS ARTICLE 4.5; AND

20 (c) RECOGNIZE THE TECHNOLOGICAL ADVANCES IN ASSISTED  
21 REPRODUCTIVE MEDICINE AND ALLOW THE USE OF THESE ADVANCES BY  
22 INTENDED PARENTS AND GESTATIONAL SURROGATES AND GENETIC

1 SURROGATES ACCORDING TO THE PUBLIC POLICY OF THIS STATE.

2 **19-4.5-103. Definitions.** AS USED IN THIS ARTICLE 4.5, UNLESS  
3 THE CONTEXT OTHERWISE REQUIRES:

4 (1) "ASSISTED REPRODUCTION" MEANS A METHOD OF CAUSING  
5 PREGNANCY THROUGH MEANS OTHER THAN BY SEXUAL INTERCOURSE. IN  
6 THE FOREGOING CONTEXT, THE TERM INCLUDES, BUT IS NOT LIMITED TO:

- 7 (a) INTRAUTERINE OR INTRACERVICAL INSEMINATION;  
8 (b) DONATION OF EGGS OR SPERM;  
9 (c) DONATION OF EMBRYOS;  
10 (d) IN VITRO FERTILIZATION AND EMBRYO TRANSFER;  
11 (e) INTRACYTOPLASMIC SPERM INJECTION; AND  
12 (f) ASSISTED REPRODUCTIVE TECHNOLOGY.

13 (2) "CHILD" MEANS AN INDIVIDUAL OR INDIVIDUALS BORN  
14 PURSUANT TO ASSISTED REPRODUCTION WHOSE PARENTAGE MAY BE  
15 DETERMINED UNDER THIS ARTICLE 4.5 OR OTHER LAW.

16 (3) "COMPENSATION" MEANS PAYMENT OF ANY VALUABLE  
17 CONSIDERATION FOR TIME, EFFORT, SUPPORT, PAIN, OR RISK.

18 (4) "DONOR" MEANS AN INDIVIDUAL WHO PROVIDES GAMETES  
19 INTENDED FOR USE IN ASSISTED REPRODUCTION, WHETHER OR NOT FOR  
20 CONSIDERATION. "DONOR" DOES NOT INCLUDE A PERSON WHO GIVES  
21 BIRTH TO A CHILD CONCEIVED BY ASSISTED REPRODUCTION, EXCEPT IN THE  
22 CASE OF GENETIC SURROGACY, OR AN INDIVIDUAL WHO IS A PARENT  
23 UNDER THE RULES GOVERNING THE PARENTAGE OF CHILDREN CONCEIVED  
24 THROUGH ASSISTED REPRODUCTION.

25 (5) "EMBRYO" MEANS A FERTILIZED EGG THAT HAS THE POTENTIAL  
26 TO DEVELOP INTO A FETUS IF TRANSFERRED INTO A UTERUS.

27 (6) "EMBRYO TRANSFER" OR "TRANSFER" MEANS THE PLACEMENT

1 OF AN EMBRYO INTO A UTERUS.

2 (7) "GAMETE" MEANS A CELL CONTAINING A HAPLOID  
3 COMPLEMENT OF DNA THAT HAS THE POTENTIAL TO FORM AN EMBRYO  
4 WHEN COMBINED WITH ANOTHER GAMETE. SPERM AND EGGS ARE  
5 GAMETES.

6 (8) "GENETIC SURROGATE" MEANS A WOMAN WHO IS NOT AN  
7 INTENDED PARENT AND WHO AGREES TO BECOME PREGNANT THROUGH  
8 ASSISTED REPRODUCTION USING THEIR OWN DONATED GAMETES, UNDER  
9 A SURROGACY AGREEMENT AS PROVIDED IN THIS ARTICLE 4.5.

10 (9) "GESTATIONAL SURROGATE" MEANS A WOMAN WHO IS NOT AN  
11 INTENDED PARENT AND WHO AGREES TO BECOME PREGNANT THROUGH  
12 ASSISTED REPRODUCTION USING GAMETES THAT ARE NOT THEIR OWN,  
13 UNDER A SURROGACY AGREEMENT AS PROVIDED IN THIS ARTICLE 4.5.

14 (10) "INTENDED PARENT" MEANS AN INDIVIDUAL, MARRIED OR  
15 UNMARRIED, WHO MANIFESTS AN INTENT TO BE LEGALLY BOUND AS A  
16 PARENT OF A CHILD CONCEIVED BY ASSISTED REPRODUCTION.

17 (11) "MEDICAL EVALUATION" MEANS A COMPLETE CONSULTATION  
18 WITH AND EVALUATION BY A LICENSED MEDICAL DOCTOR.

19 (12) "MENTAL HEALTH CONSULTATION" MEANS A CONSULTATION  
20 WITH AND, WHEN REQUIRED BY THIS ARTICLE 4.5, AN ASSESSMENT BY A  
21 LICENSED MENTAL HEALTH PROFESSIONAL.

22 (13) "SURROGACY AGREEMENT" MEANS AN AGREEMENT BETWEEN  
23 ONE OR MORE INTENDED PARENTS AND A WOMAN WHO IS NOT AN  
24 INTENDED PARENT IN WHICH THE WOMAN AGREES TO BECOME PREGNANT  
25 THROUGH ASSISTED REPRODUCTION AND THAT PROVIDES THAT EACH  
26 INTENDED PARENT IS A PARENT OF A CHILD CONCEIVED UNDER THE  
27 AGREEMENT. UNLESS OTHERWISE SPECIFIED, THE TERM REFERS TO BOTH

1 A GESTATIONAL SURROGACY AGREEMENT AND A GENETIC SURROGACY  
2 AGREEMENT.

3 **19-4.5-104. Eligibility requirements.** (1) TO EXECUTE AN  
4 AGREEMENT TO ACT AS A GESTATIONAL SURROGATE OR GENETIC  
5 SURROGATE, A WOMAN MUST:

- 6 (a) BE AT LEAST TWENTY-ONE YEARS OF AGE;
- 7 (b) PREVIOUSLY HAVE GIVEN BIRTH TO AT LEAST ONE CHILD;
- 8 (c) COMPLETE A MEDICAL EVALUATION RELATED TO THE  
9 SURROGACY ARRANGEMENT BY A LICENSED MEDICAL DOCTOR;
- 10 (d) COMPLETE A MENTAL HEALTH CONSULTATION BY A LICENSED  
11 MENTAL HEALTH PROFESSIONAL; AND
- 12 (e) HAVE INDEPENDENT LEGAL REPRESENTATION OF THEIR CHOICE  
13 BY AN ATTORNEY LICENSED IN THIS STATE THROUGHOUT THE SURROGACY  
14 ARRANGEMENT REGARDING THE TERMS OF THE SURROGACY AGREEMENT  
15 AND THE POTENTIAL LEGAL CONSEQUENCES OF THE AGREEMENT.

16 (2) TO EXECUTE A SURROGACY AGREEMENT, EACH INTENDED  
17 PARENT, WHETHER OR NOT GENETICALLY RELATED TO THE CHILD, MUST:

- 18 (a) BE AT LEAST TWENTY-ONE YEARS OF AGE;
- 19 (b) COMPLETE A MEDICAL EVALUATION RELATED TO THE  
20 SURROGACY ARRANGEMENT BY A LICENSED MEDICAL DOCTOR; AND
- 21 (c) HAVE INDEPENDENT LEGAL REPRESENTATION OF THE INTENDED  
22 PARENT'S OR PARENTS' CHOICE BY AN ATTORNEY LICENSED IN THIS STATE  
23 THROUGHOUT THE SURROGACY ARRANGEMENT REGARDING THE TERMS OF  
24 THE SURROGACY AGREEMENT AND THE POTENTIAL LEGAL CONSEQUENCES  
25 OF THE AGREEMENT.

26 **19-4.5-105. Process requirements for a surrogacy agreement.**

27 (1) A SURROGACY AGREEMENT MUST BE EXECUTED IN COMPLIANCE WITH

1 THE FOLLOWING RULES:

2 (a) AT LEAST ONE PARTY MUST BE A RESIDENT OF THIS STATE, OR  
3 THE BIRTH WILL OCCUR OR IS ANTICIPATED TO OCCUR IN THIS STATE, OR  
4 THE ASSISTED REPRODUCTION PERFORMED PURSUANT TO THE SURROGACY  
5 AGREEMENT WILL OCCUR IN THIS STATE;

6 (b) A GESTATIONAL SURROGATE OR GENETIC SURROGATE AND  
7 EACH INTENDED PARENT MUST MEET THE REQUIREMENTS OF SECTION  
8 19-4.5-104;

9 (c) EACH INTENDED PARENT, THE GESTATIONAL SURROGATE OR  
10 GENETIC SURROGATE, AND THE SURROGATE'S SPOUSE, IF ANY, MUST BE  
11 PARTIES TO THE AGREEMENT;

12 (d) EACH PARTY LISTED IN SUBSECTION (1)(c) OF THIS SECTION  
13 SHALL SIGN THE AGREEMENT;

14 (e) THE SIGNATURE OF EACH PARTY TO THE AGREEMENT MUST BE  
15 ATTESTED BY A NOTARIAL OFFICER;

16 (f) THE INTENDED PARENT OR PARENTS MAY PAY FOR  
17 INDEPENDENT LEGAL REPRESENTATION FOR THE GESTATIONAL SURROGATE  
18 OR GENETIC SURROGATE; AND

19 (g) THE AGREEMENT MUST BE EXECUTED BEFORE A MEDICAL  
20 PROCEDURE OCCURS RELATED TO THE SURROGACY AGREEMENT, OTHER  
21 THAN THE MEDICAL EVALUATION AND MENTAL HEALTH CONSULTATION  
22 REQUIRED BY SECTION 19-4.5-104.

23 **19-4.5-106. Required contents of surrogacy agreement.** (1) A  
24 SURROGACY AGREEMENT MUST COMPLY WITH THE FOLLOWING  
25 REQUIREMENTS:

26 (a) A GESTATIONAL SURROGATE OR GENETIC SURROGATE AGREES  
27 TO ATTEMPT TO BECOME PREGNANT BY MEANS OF ASSISTED

1       REPRODUCTION;

2           (b) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-4.5-111, THE  
3       GESTATIONAL SURROGATE OR GENETIC SURROGATE AND THE SURROGATE'S  
4       SPOUSE OR FORMER SPOUSE, IF ANY, HAVE NO CLAIM TO PARENTAGE OF A  
5       CHILD CONCEIVED BY ASSISTED REPRODUCTION UNDER THE AGREEMENT;

6           (c) THE GESTATIONAL SURROGATE OR GENETIC SURROGATE'S  
7       SPOUSE, IF ANY, MUST ACKNOWLEDGE AND AGREE TO COMPLY WITH THE  
8       OBLIGATIONS IMPOSED ON THE SURROGATE BY THE AGREEMENT;

9           (d) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-4.5-111, THE  
10      INTENDED PARENT, OR, IF THERE ARE TWO INTENDED PARENTS, EACH ONE  
11      JOINTLY AND SEVERALLY, IMMEDIATELY ON BIRTH WILL BE THE  
12      EXCLUSIVE PARENT OR PARENTS OF THE CHILD, REGARDLESS OF NUMBER  
13      OF CHILDREN BORN OR GENDER OR MENTAL OR PHYSICAL CONDITION OF  
14      EACH CHILD;

15           (e) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-4.5-111, THE  
16      INTENDED PARENT, OR, IF THERE ARE TWO INTENDED PARENTS, EACH  
17      PARENT JOINTLY AND SEVERALLY, IMMEDIATELY ON BIRTH WILL ASSUME  
18      RESPONSIBILITY FOR THE FINANCIAL SUPPORT OF THE CHILD, REGARDLESS  
19      OF THE NUMBER OF CHILDREN BORN OR GENDER OR MENTAL OR PHYSICAL  
20      CONDITION OF EACH CHILD;

21           (f) THE AGREEMENT MUST INCLUDE INFORMATION DISCLOSING  
22      HOW EACH INTENDED PARENT WILL COVER THE AGREED-UPON EXPENSES  
23      OF THE GESTATIONAL SURROGATE OR GENETIC SURROGATE, THE ASSISTED  
24      REPRODUCTION EXPENSES, AND THE MEDICAL EXPENSES FOR THE  
25      SURROGATE AND THE CHILD;

26           (g) THE AGREEMENT MUST PERMIT THE GESTATIONAL SURROGATE  
27      OR GENETIC SURROGATE TO MAKE ALL HEALTH AND WELFARE DECISIONS

1 REGARDING THEMSELVES AND THE PREGNANCY. THIS ARTICLE 4.5 DOES  
2 NOT ENLARGE OR DIMINISH THE GESTATIONAL SURROGATE'S OR GENETIC  
3 SURROGATE'S RIGHT TO TERMINATE THE PREGNANCY.

4 (h) THE AGREEMENT MUST INCLUDE INFORMATION ABOUT EACH  
5 PARTY'S RIGHT UNDER THIS ARTICLE 4.5 TO TERMINATE THE SURROGACY  
6 AGREEMENT.

7 (2) A SURROGACY AGREEMENT MAY PROVIDE FOR:  
8 (a) PAYMENT OF COMPENSATION, SUPPORT, AND REASONABLE  
9 EXPENSES; AND

10 (b) REIMBURSEMENT OF SPECIFIC AGREED-UPON EXPENSES IF THE  
11 AGREEMENT IS TERMINATED UNDER THIS ARTICLE 4.5.

12 (3) A RIGHT CREATED UNDER A SURROGACY AGREEMENT IS NOT  
13 ASSIGNABLE AND THERE IS NO THIRD-PARTY BENEFICIARY OF THE  
14 AGREEMENT OTHER THAN THE CHILD.

15 (4) IN THE EVENT THAT ANY OF THE REQUIREMENTS OF THIS  
16 SECTION ARE NOT MET, A COURT OF COMPETENT JURISDICTION SHALL  
17 DETERMINE PARENTAGE BASED ON THE PARTIES' INTENT.

18 **19-4.5-107. Effect of subsequent change of marital status.**

19 (1) UNLESS A SURROGACY AGREEMENT EXPRESSLY PROVIDES OTHERWISE:

20 (a) THE MARRIAGE OF A GESTATIONAL SURROGATE OR GENETIC  
21 SURROGATE AFTER THE AGREEMENT IS SIGNED BY ALL PARTIES DOES NOT  
22 AFFECT THE VALIDITY OF THE AGREEMENT, THEIR SPOUSE'S CONSENT TO  
23 THE AGREEMENT IS NOT REQUIRED, AND THEIR SPOUSE IS NOT A PRESUMED  
24 PARENT OF A CHILD CONCEIVED BY ASSISTED REPRODUCTION UNDER THE  
25 AGREEMENT; AND

26 (b) THE DISSOLUTION, ANNULMENT, DECLARATION OF INVALIDITY,  
27 LEGAL SEPARATION, OR SEPARATE MAINTENANCE OF THE GESTATIONAL

1 SURROGATE OR GENETIC SURROGATE AFTER THE AGREEMENT IS SIGNED BY  
2 ALL PARTIES DOES NOT AFFECT THE VALIDITY OF THE AGREEMENT.

3 (2) UNLESS A SURROGACY AGREEMENT EXPRESSLY PROVIDES  
4 OTHERWISE:

5 (a) THE MARRIAGE OF AN INTENDED PARENT AFTER THE  
6 AGREEMENT IS SIGNED BY ALL PARTIES DOES NOT AFFECT THE VALIDITY  
7 OF A SURROGACY AGREEMENT, THE CONSENT OF THE SPOUSE OF THE  
8 INTENDED PARENT IS NOT REQUIRED, AND THE SPOUSE OF THE INTENDED  
9 PARENT IS NOT, BASED ON THE AGREEMENT, A PARENT OF A CHILD  
10 CONCEIVED BY ASSISTED REPRODUCTION UNDER THE AGREEMENT; AND

11 (b) THE DISSOLUTION, ANNULMENT, DECLARATION OF INVALIDITY,  
12 LEGAL SEPARATION, OR SEPARATE MAINTENANCE OF AN INTENDED PARENT  
13 AFTER THE AGREEMENT IS SIGNED BY ALL PARTIES DOES NOT AFFECT THE  
14 VALIDITY OF THE AGREEMENT AND, EXCEPT AS OTHERWISE PROVIDED IN  
15 SECTION 19-4.5-110 OR 19-4.5-112, THE INTENDED PARENTS ARE THE  
16 PARENTS OF THE CHILD.

17 **19-4.5-108. Termination of surrogacy agreement.** (1) A PARTY  
18 TO A SURROGACY AGREEMENT MAY TERMINATE THE AGREEMENT, AT ANY  
19 TIME BEFORE A GAMETE OR AN EMBRYO TRANSFER, BY GIVING NOTICE OF  
20 TERMINATION IN A RECORD TO ALL OTHER PARTIES. IF A GAMETE OR AN  
21 EMBRYO TRANSFER DOES NOT RESULT IN A PREGNANCY, A PARTY MAY  
22 TERMINATE THE AGREEMENT AT ANY TIME BEFORE A SUBSEQUENT  
23 GAMETE OR EMBRYO TRANSFER.

24 (2) UNLESS A SURROGACY AGREEMENT PROVIDES OTHERWISE, ON  
25 TERMINATION OF THE AGREEMENT PURSUANT TO SUBSECTION (1) OF THIS  
26 SECTION, THE PARTIES ARE RELEASED FROM THE AGREEMENT; EXCEPT  
27 THAT EACH INTENDED PARENT REMAINS RESPONSIBLE FOR EXPENSES THAT

1 ARE REIMBURSABLE UNDER THE AGREEMENT AND INCURRED BY THE  
2 GESTATIONAL SURROGATE OR GENETIC SURROGATE THROUGH THE DATE  
3 OF TERMINATION.

4 (3) EXCEPT IN A CASE INVOLVING FRAUD, NO PARTY IS LIABLE TO  
5 ANY OTHER PARTY FOR A PENALTY OR LIQUIDATED DAMAGES FOR  
6 TERMINATING A SURROGACY AGREEMENT UNDER THIS SECTION.

7 **19-4.5-109. Establishment of parent-child relationship under**  
8 **surrogacy agreement.** (1) EXCEPT AS OTHERWISE PROVIDED IN  
9 SUBSECTION (3) OF THIS SECTION OR SECTION 19-4.5-110 (2) OR  
10 19-4.5-112, ON BIRTH OF A CHILD CONCEIVED BY ASSISTED REPRODUCTION  
11 UNDER A SURROGACY AGREEMENT, EACH INTENDED PARENT IS, BY  
12 OPERATION OF LAW, A PARENT OF THE CHILD.

13 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
14 SECTION OR SECTION 19-4.5-112, NEITHER A GESTATIONAL SURROGATE OR  
15 GENETIC SURROGATE NOR THE SURROGATE'S SPOUSE OR FORMER SPOUSE,  
16 IF ANY, IS A PARENT OF THE CHILD.

17 (3) IF A CHILD IS ALLEGED TO BE A GENETIC CHILD OF THE WOMAN  
18 WHO AGREED TO BE A GESTATIONAL SURROGATE, THE COURT SHALL  
19 ORDER GENETIC TESTING OF THE CHILD. IF THE CHILD IS A GENETIC CHILD  
20 OF THE WOMAN WHO AGREED TO BE A GESTATIONAL SURROGATE,  
21 PARENTAGE MUST BE DETERMINED BASED ON ARTICLE 4 OF THIS TITLE 19.

22 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS  
23 SECTION OR SECTION 19-4.5-110 (2) OR 19-4.5-112, IF, DUE TO A CLINICAL  
24 OR LABORATORY ERROR, A CHILD CONCEIVED BY ASSISTED REPRODUCTION  
25 UNDER A SURROGACY AGREEMENT IS NOT GENETICALLY RELATED TO AN  
26 INTENDED PARENT OR A DONOR WHO DONATED TO THE INTENDED PARENT  
27 OR PARENTS, EACH INTENDED PARENT, AND NOT THE GESTATIONAL

1 SURROGATE OR GENETIC SURROGATE AND THE SURROGATE'S SPOUSE OR  
2 FORMER SPOUSE, IF ANY, IS A PARENT OF THE CHILD, SUBJECT TO ANY  
3 OTHER CLAIM OF PARENTAGE.

4 (5) A DONOR IS NOT A PARENT OF A CHILD CONCEIVED BY ASSISTED  
5 REPRODUCTION.

6 **19-4.5-110. Parentage of deceased intended parent under**  
7 **surrogacy agreement.** (1) SECTION 19-4.5-109 APPLIES TO AN INTENDED  
8 PARENT EVEN IF THE INTENDED PARENT DIED DURING THE PERIOD  
9 BETWEEN THE TRANSFER OF A GAMETE OR EMBRYO AND THE BIRTH OF THE  
10 CHILD.

11 (2) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-4.5-112, AN  
12 INTENDED PARENT IS NOT A PARENT OF A CHILD CONCEIVED BY ASSISTED  
13 REPRODUCTION UNDER A SURROGACY AGREEMENT IF THE INTENDED  
14 PARENT DIES BEFORE THE TRANSFER OF A GAMETE OR EMBRYO UNLESS:

15 (a) THE AGREEMENT PROVIDES OTHERWISE; AND  
16 (b) THE TRANSFER OF A GAMETE OR EMBRYO OCCURS NOT LATER  
17 THAN THIRTY-SIX MONTHS AFTER THE DEATH OF THE INTENDED PARENT OR  
18 BIRTH OF THE CHILD OCCURS NOT LATER THAN FORTY-FIVE MONTHS AFTER  
19 THE DEATH OF THE INTENDED PARENT.

20 **19-4.5-111. Court order of parentage under surrogacy**  
21 **agreement.** (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 19-4.5-110  
22 (2) OR 19-4.5-112, BEFORE, ON, OR AFTER THE BIRTH OF A CHILD  
23 CONCEIVED BY ASSISTED REPRODUCTION PURSUANT TO A SURROGACY  
24 AGREEMENT, A PARTY TO THE AGREEMENT MAY COMMENCE A  
25 PROCEEDING IN A JUVENILE COURT IN THIS STATE BY FILING A PETITION  
26 FOR DETERMINATION OF PARENT-CHILD RELATIONSHIP WITH ADMISSIONS  
27 OF PARENTAGE, AS APPLICABLE BY THE INTENDED PARENTS, AND

1 ADMISSIONS OF NONPARENTAGE BY THE GESTATIONAL SURROGATE OR  
2 GENETIC SURROGATE AND THEIR SPOUSE, IF ANY, AS APPLICABLE AND FOR  
3 AN ORDER OR JUDGMENT:

4 (a) DECLARING THAT EACH INTENDED PARENT IS A PARENT OF THE  
5 CHILD AND ORDERING THAT PARENTAL RIGHTS AND DUTIES VEST  
6 IMMEDIATELY ON THE BIRTH OF THE CHILD EXCLUSIVELY IN EACH  
7 INTENDED PARENT;

8 (b) DECLARING THAT THE GESTATIONAL SURROGATE OR GENETIC  
9 SURROGATE AND THE SURROGATE'S SPOUSE OR FORMER SPOUSE, IF ANY,  
10 ARE NOT THE PARENTS OF THE CHILD;

11 (c) DESIGNATING THE CONTENT OF THE BIRTH RECORD IN  
12 ACCORDANCE WITH ARTICLE 2 OF TITLE 25 AND DIRECTING THE COLORADO  
13 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR STATE REGISTRAR  
14 TO DESIGNATE EACH INTENDED PARENT AS A PARENT OF THE CHILD;

15 (d) TO PROTECT THE PRIVACY OF THE CHILD AND THE PARTIES,  
16 DECLARING THAT THE COURT RECORD IS NOT OPEN TO INSPECTION;

17 (e) IF NECESSARY, THAT THE CHILD BE SURRENDERED TO THE  
18 INTENDED PARENT OR PARENTS; AND

19 (f) FOR OTHER RELIEF THE COURT DETERMINES NECESSARY AND  
20 PROPER.

21 (2) THE COURT MAY ISSUE AN ORDER OR JUDGMENT UNDER  
22 SUBSECTION (1) OF THIS SECTION BEFORE THE BIRTH OF THE CHILD. THE  
23 COURT SHALL STAY ENFORCEMENT OF THE ORDER OR JUDGMENT UNTIL  
24 THE BIRTH OF THE CHILD.

25 (3) NEITHER THIS STATE NOR THE COLORADO DEPARTMENT OF  
26 PUBLIC HEALTH AND ENVIRONMENT IS A NECESSARY PARTY TO A  
27 PROCEEDING UNDER SUBSECTION (1) OF THIS SECTION.

1 (4) THE PETITION DESCRIBED IN SUBSECTION (1) OF THIS SECTION  
2 MUST SET FORTH THE FACTS OF THE SURROGACY ARRANGEMENT.

3 (5) IF A COURT ORDER OF PARENTAGE IS ISSUED IN ANOTHER  
4 STATE, THE ORDER MUST BE REGISTERED WITH A COLORADO COURT OF  
5 COMPETENT JURISDICTION BEFORE BEING VALID IN THIS STATE.

6                   **19-4.5-112. Effect of surrogacy agreement.** (1) A SURROGACY  
7                   AGREEMENT THAT COMPLIES WITH SECTIONS 19-4.5-104, 19-4.5-105, AND  
8                   19-4.5-106 IS ENFORCEABLE.

24 (4) SPECIFIC PERFORMANCE IS NOT A REMEDY AVAILABLE FOR  
25 BREACH BY A GESTATIONAL SURROGATE OR GENETIC SURROGATE OF A  
26 PROVISION IN THE AGREEMENT THAT THE SURROGATE BE IMPREGNATED,  
27 TERMINATE OR NOT TERMINATE A PREGNANCY, OR SUBMIT TO MEDICAL

1 PROCEDURES.

2 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS  
3 SECTION, IF AN INTENDED PARENT IS DETERMINED TO BE A PARENT OF THE  
4 CHILD, SPECIFIC PERFORMANCE IS A REMEDY AVAILABLE FOR:

5 (a) BREACH OF THE AGREEMENT BY A GESTATIONAL SURROGATE  
6 OR GENETIC SURROGATE WHICH PREVENTS THE INTENDED PARENT FROM  
7 EXERCISING IMMEDIATELY ON BIRTH OF THE CHILD THE FULL RIGHTS OF  
8 PARENTAGE; OR

9 (b) BREACH BY THE INTENDED PARENT WHICH PREVENTS THE  
10 INTENDED PARENT'S ACCEPTANCE, IMMEDIATELY ON BIRTH OF THE CHILD  
11 CONCEIVED BY ASSISTED REPRODUCTION UNDER THE AGREEMENT, OF THE  
12 DUTIES OF PARENTAGE.

13 **19-4.5-113. Duty to support.** (1) THE ESTABLISHMENT OF THE  
14 PARENT AND CHILD RELATIONSHIP PURSUANT TO A VALID SURROGACY  
15 AGREEMENT, COURT ORDER OF PARENTAGE, AND THIS ARTICLE 4.5 IS THE  
16 BASIS UPON WHICH AN ACTION FOR CHILD SUPPORT MAY BE BROUGHT  
17 AGAINST THE INTENDED PARENT AND ACTED UPON BY THE COURT OR THE  
18 DELEGATE CHILD SUPPORT ENFORCEMENT UNIT WITHOUT FURTHER  
19 EVIDENTIARY PROCEEDINGS.

20 (2) THE BREACH OF THE SURROGACY AGREEMENT BY THE  
21 INTENDED PARENT DOES NOT RELIEVE THE INTENDED PARENT OF THE  
22 SUPPORT OBLIGATIONS IMPOSED BY THE PARENT AND CHILD RELATIONSHIP  
23 PURSUANT TO THE PROVISIONS OF THIS ARTICLE 4.5.

24 (3) THE DONOR IS NOT THE LEGAL PARENT OF THE CHILD THEREBY  
25 CONCEIVED AND HAS NO RIGHTS OR DUTIES STEMMING FROM THE  
26 CONCEPTION OF THE CHILD.

27 **19-4.5-114. Certain provisions of law not applicable to**

1       **surrogacy agreements.** (1) A SURROGACY AGREEMENT IS NOT  
2        CONSIDERED:

3               (a) AN ADOPTION PURSUANT TO ARTICLE 5 OF THIS TITLE 19; OR  
4               (b) A SURRENDER OF CUSTODY OR TERMINATION OF PARENTAL  
5        RIGHTS OF THE CHILD BY THE DONOR IN VIOLATION OF THE REQUIREMENTS  
6        OF ARTICLE 3 OF THIS TITLE 19.

7               (2) THE PAYMENT OF REASONABLE EXPENSES AND SUPPORT IN  
8        CONNECTION WITH A VALID SURROGACY AGREEMENT DOES NOT  
9        CONSTITUTE A VIOLATION OF SECTION 19-5-213.

10               **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**  
11        (91.5) as follows:

12               **19-1-103. Definitions.** As used in this title 19 or in the specified  
13        portion of this title 19, unless the context otherwise requires:

14               (91.5) "Record", as used in section 19-4-106 AND SECTION  
15        19-4.5-108, means information that is inscribed on a tangible medium or  
16        that is stored in an electronic or other medium and is retrievable in  
17        perceivable form.

18               **SECTION 3. Safety clause.** The general assembly hereby finds,  
19        determines, and declares that this act is necessary for the immediate  
20        preservation of the public peace, health, or safety.