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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 437

01/29/2015 Authored by Scott, Uglem, Wills, Runbeck, Lucero and others
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to family law; establishing a legislative surrogacy commission; providing
1.3 appointments; requiring a report.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **LEGISLATIVE SURROGACY COMMISSION.**

1.6 Subdivision 1. Establishment. The Legislative Commission to Study Surrogacy
1.7 in Minnesota shall study and make recommendations regarding whether surrogacy
1.8 agreements should be permitted as a matter of law and public policy.

1.9 Subd. 2. Membership. The commission shall consist of 12 members, as follows:

1.10 (1) three members of the senate appointed by the Senate Committee on Rules and
1.11 Administration Subcommittee on Committees;

1.12 (2) three members of the senate appointed by the senate minority leader;

1.13 (3) three members of the house of representatives appointed by the speaker of the
1.14 house; and

1.15 (4) three members of the house of representatives appointed by the house of
1.16 representatives minority leader.

1.17 Appointments must be made by members elected to the 89th session of the
1.18 legislature by June 1, 2015.

1.19 Subd. 3. Compensation. Members are entitled to reimbursement for per diem
1.20 expenses plus travel expenses incurred in the services of the commission.

1.21 Subd. 4. Conflict of interest. A commission member may not participate in or
1.22 vote on a decision of the commission in which the member has either a direct or indirect
1.23 personal financial interest. While serving on the commission, a person shall avoid any
1.24 potential conflicts of interest. At the beginning of each meeting, each member must

2.1 disclose whether they have a potential conflict of interest. Any public testifier or witness
 2.2 to the commission must disclose any financial conflict of interest, either past or present,
 2.3 pertaining to a surrogacy arrangement or a surrogacy agreement.

2.4 Subd. 5. **Guiding principles.** In preparing its recommendations, the commission
 2.5 should be guided by the following principles:

2.6 (1) the desire to bring life into the world and raise a child is a laudable aspiration;

2.7 (2) infertility is a painful experience, and compassion should be shown to those who
 2.8 have medical complications that make it difficult or impossible to conceive a child;

2.9 (3) some fertility treatments are available to overcome infertility;

2.10 (4) the availability of certain forms of reproductive technology does not mean that
 2.11 they are ethically responsible ways of conceiving a child;

2.12 (5) surrogacy arrangements have significant public policy implications;

2.13 (6) surrogacy arrangements involve many parties including, but not limited to,
 2.14 the surrogate mother, the intended parents, the child, insurance companies, medical
 2.15 professionals, and attorneys;

2.16 (7) while many families might desire to have a child, no one has a right to a child;

2.17 (8) children should have access to information about their biological and gestational
 2.18 parents if possible;

2.19 (9) serious consideration should be given to the ethical responsibility of using a
 2.20 woman's reproductive organs for remuneration;

2.21 (10) financial or other economic incentives have the potential to be coercive and
 2.22 unfair; and

2.23 (11) in Minnesota, the guiding principles of family law statutes that terminate parental
 2.24 rights have been created to balance the interests of the mother, child, and intended parents.

2.25 Subd. 6. **Methodology.** The commission shall study, through public hearings,
 2.26 research, and deliberation, the significant ethical and public policy concerns raised by
 2.27 surrogacy agreements. These topics include, but are not limited to:

2.28 (1) potential health and psychological harm to women who serve as surrogates;

2.29 (2) potential health and psychological harm to children born of surrogates;

2.30 (3) business practices of the fertility industry, including attorneys, brokers, and
 2.31 clinics;

2.32 (4) ethical considerations related to different forms of surrogacy, including the
 2.33 exploitative potential of offering financial incentives to economically disadvantaged
 2.34 women for use of their reproductive organs;

2.35 (5) ethical considerations related to in vitro fertilization, embryo transfer, egg and
 2.36 sperm donation, including donor anonymity;

3.1 (6) contract law implications for pregnancies that are terminated or other situations
3.2 in which a surrogacy contract is breached;

3.3 (7) potential conflicts with statutes governing private adoption and termination
3.4 of parental rights including, but not limited to: (i) whether Minnesota law prohibiting
3.5 payments for adoption bar surrogacy contracts; and (ii) whether surrogacy arrangements
3.6 conform to best interest of the child standard;

3.7 (8) probability of unforeseen legal problems related to third-party reproduction; and

3.8 (9) public policy determinations of other jurisdictions with regard to surrogacy.

3.9 Subd. 7. **Reporting.** The commission must submit its report and recommendations
3.10 to the chairs and ranking minority members of the legislative committees with relevant
3.11 jurisdiction in the house and senate by December 15, 2015.

3.12 Subd. 8. **Expiration.** The commission expires December 31, 2015.

3.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.