

HB 1151

2016

1 A bill to be entitled
2 An act relating to parentage; amending s. 63.213,
3 F.S.; revising terminology relating to parents;
4 amending ss. 742.11 and 742.13, F.S.; revising
5 terminology relating to married couples; amending ss.
6 742.14 and 742.15, F.S.; revising terminology relating
7 to parents; making technical changes; amending s.
8 742.16, F.S.; revising to whom notice of hearing must
9 be given on a petition for expedited affirmation of
10 parental status; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (b) of subsection (1), paragraphs (a)
15 and (c) through (h) of subsection (2), subsections (4) and (5),
16 and paragraphs (d) through (i) of subsection (6) of section
17 63.213, Florida Statutes, are amended to read:

18 63.213 Preplanned adoption agreement.—

19 (1) Individuals may enter into a preplanned adoption
20 arrangement as specified in this section, but such arrangement
21 may not in any way:

22 (b) Constitute consent of a mother to place her biological
23 child for adoption until 48 hours after the birth of the child
24 and unless the court making the custody determination or
25 approving the adoption determines that the mother was aware of
26 her right to rescind within the 48-hour period after the birth

HB 1151

2016

27 of the child but chose not to rescind such consent. The
28 volunteer mother's right to rescind her consent in a preplanned
29 adoption applies only when she is the genetic mother of the
30 ~~child is genetically related to her.~~

31 (2) A preplanned adoption agreement must include, but need
32 not be limited to, the following terms:

33 (a) That the volunteer mother agrees to become pregnant by
34 the fertility technique specified in the agreement, to bear the
35 child, and to terminate any parental rights and responsibilities
36 to the child she might have through a written consent executed
37 at the same time as the preplanned adoption agreement, subject
38 to a right of rescission by the volunteer mother any time within
39 48 hours after the birth of the child, if the volunteer mother
40 is the genetic mother of ~~genetically related to~~ the child.

41 (c) That the volunteer mother acknowledges that she is
42 aware that she will assume parental rights and responsibilities
43 for the child born to her as otherwise provided by law for a
44 mother if the intended parents ~~father and intended mother~~
45 terminate the agreement before final transfer of custody is
46 completed, if a court determines that a parent clearly specified
47 by the preplanned adoption agreement to be the biological parent
48 is not the biological parent, or if the preplanned adoption is
49 not approved by the court pursuant to the Florida Adoption Act.

50 (d) That an intended parent ~~father~~ who is also the
51 biological parent ~~father~~ acknowledges that the parent ~~he~~ is
52 aware that the parent ~~he~~ will assume parental rights and

53 responsibilities for the child as otherwise provided by law for
54 a biological parent ~~father~~ if the agreement is terminated for
55 any reason by any party before final transfer of custody is
56 completed or if the planned adoption is not approved by the
57 court pursuant to the Florida Adoption Act.

58 (e) That the intended parents ~~father and intended mother~~
59 acknowledge that they may not receive custody or the parental
60 rights under the agreement if the volunteer mother terminates
61 the agreement or if the volunteer mother rescinds her consent to
62 place her child for adoption within 48 hours after the birth of
63 the child, if the volunteer mother is the genetic mother of
64 ~~genetically related to~~ the child.

65 (f) That the intended parents ~~father and intended mother~~
66 may agree to pay all reasonable legal, medical, psychological,
67 or psychiatric expenses of the volunteer mother related to the
68 preplanned adoption arrangement and may agree to pay the
69 reasonable living expenses of the volunteer mother and her wages
70 lost due to the pregnancy and birth ~~of the volunteer mother~~ and
71 reasonable compensation to the volunteer mother for
72 inconvenience, discomfort, and medical risk. No other
73 compensation, whether in cash or in kind, shall be made pursuant
74 to a preplanned adoption arrangement.

75 (g) That the intended parents ~~father and intended mother~~
76 agree to accept custody of and to assert full parental rights
77 and responsibilities for the child immediately upon the child's
78 birth, regardless of any impairment to the child.

HB 1151

2016

79 (h) That the intended parents ~~father and intended mother~~
80 ~~shall~~ have the right to specify the blood and tissue typing
81 tests to be performed if the agreement specifies that at least
82 one of them is intended to be the biological parent of the
83 child.

84 (4) An attorney who represents the ~~an~~ intended parents
85 ~~father and intended mother~~ or any other attorney with whom that
86 attorney is associated may ~~shall~~ not represent simultaneously a
87 female who is or proposes to be a volunteer mother in any matter
88 relating to a preplanned adoption agreement or preplanned
89 adoption arrangement.

90 (5) Payment to agents, finders, and intermediaries,
91 including attorneys and physicians, as a finder's fee for
92 finding volunteer mothers or matching a volunteer mother and
93 intended parents ~~father and intended mother~~ is prohibited.
94 Doctors, psychologists, attorneys, and other professionals may
95 receive reasonable compensation for their professional services,
96 such as providing medical services and procedures, legal advice
97 in structuring and negotiating a preplanned adoption agreement,
98 or counseling.

99 (6) As used in this section, the term:

100 (d) "Intended parents ~~father~~" means a married couple ~~male~~
101 who, as evidenced by a preplanned adoption agreement, intends to
102 assert the parental rights and responsibilities for a child
103 conceived through a fertility technique, regardless of whether
104 the child is biologically related to both parents or either

HB 1151

2016

105 parent ~~the male~~.

106 ~~(e) "Intended mother" means a female who, as evidenced by~~
107 ~~a preplanned adoption agreement, intends to assert the parental~~
108 ~~rights and responsibilities for a child conceived through a~~
109 ~~fertility technique, regardless of whether the child is~~
110 ~~biologically related to the female.~~

111 ~~(e)-(f)~~ "Party" means the intended father, the intended
112 mother, the volunteer mother, or the volunteer mother's spouse
113 ~~husband~~, if she has a spouse husband.

114 ~~(f)-(g)~~ "Preplanned adoption agreement" means a written
115 agreement among the parties that specifies the intent of the
116 parties as to their rights and responsibilities in the
117 preplanned adoption arrangement, consistent with ~~the provisions~~
118 ~~of~~ this section.

119 ~~(g)-(h)~~ "Preplanned adoption arrangement" means the
120 arrangement through which the parties enter into an agreement
121 for the volunteer mother to bear the child, for payment by the
122 intended parents ~~father and intended mother~~ of the expenses
123 allowed by this section, for the intended parents ~~father and~~
124 ~~intended mother~~ to assert full parental rights and
125 responsibilities to the child if consent to adoption is not
126 rescinded after birth by a volunteer mother who is the genetic
127 mother of ~~genetically related to~~ the child, and for the
128 volunteer mother to terminate, subject to any right of
129 rescission, all her parental rights and responsibilities to the
130 child in favor of the intended parents ~~father and intended~~

HB 1151

2016

131 mother.

132 (h)~~(i)~~ "Volunteer mother" means a female at least 18 years
133 of age who voluntarily agrees, subject to a right of rescission
134 if she is the genetic mother of the ~~it is her biological~~ child,
135 that if she should become pregnant pursuant to a preplanned
136 adoption arrangement, she will terminate her parental rights and
137 responsibilities to the child in favor of the intended parents
138 ~~father and intended mother.~~

139 Section 2. Section 742.11, Florida Statutes, is amended to
140 read:

141 742.11 Presumed status of child conceived by means of
142 artificial or in vitro insemination or donated eggs or
143 preembryos.—

144 (1) Except in the case of gestational surrogacy, any child
145 born within wedlock who has been conceived by the means of
146 artificial or in vitro insemination is irrebuttably presumed to
147 be the child of the mother and her spouse ~~husband and wife~~,
148 provided that both spouses ~~husband and wife~~ have consented in
149 writing to the artificial or in vitro insemination.

150 (2) Except in the case of gestational surrogacy, any child
151 born within wedlock who has been conceived by means of donated
152 eggs or preembryos shall be irrebuttably presumed to be the
153 child of the recipient gestating woman and her spouse ~~husband~~,
154 provided that both spouses ~~parties~~ have consented in writing to
155 the use of donated eggs or preembryos.

156 Section 3. Subsection (2) of section 742.13, Florida

HB 1151

2016

157 Statutes, is amended, subsections (10) through (15) are
 158 renumbered as subsections (11) through (16), respectively, and a
 159 new subsection (10) is added to that section, to read:

160 742.13 Definitions.—As used in ss. 742.11-742.17, the
 161 term:

162 (2) "Commissioning couple" means the intended parents
 163 ~~mother and father~~ of a child who will be conceived by means of
 164 assisted reproductive technology using the eggs or sperm of at
 165 least one of the intended parents.

166 (10) "Intended parents" means parents whose consent is
 167 established under s. 752.11 or s. 742.15 and persons defined as
 168 intended parents under s. 63.213.

169 Section 4. Section 742.14, Florida Statutes, is amended to
 170 read:

171 742.14 Donation of eggs, sperm, or preembryos.—The donor
 172 of any egg, sperm, or preembryo, other than the commissioning
 173 couple or a donor ~~father~~ who has executed a preplanned adoption
 174 agreement under s. 63.213 ~~63.212~~, shall relinquish all maternal
 175 or paternal rights and obligations with respect to the donation
 176 or the resulting children. Only reasonable compensation directly
 177 related to the donation of eggs, sperm, and preembryos shall be
 178 permitted.

179 Section 5. Subsection (2) of section 742.15, Florida
 180 Statutes, is amended to read:

181 742.15 Gestational surrogacy contract.—

182 (2) The commissioning couple shall enter into a contract

183 with a gestational surrogate only when, within reasonable
 184 medical certainty as determined by a physician licensed under
 185 chapter 458 or chapter 459:

186 (a) Neither intended parent can ~~The commissioning mother~~
 187 ~~cannot~~ physically gestate a pregnancy to term;

188 (b) Neither intended parent can physically gestate a
 189 pregnancy without causing ~~The gestation will cause~~ a risk to the
 190 physical health of the intended parent ~~commissioning mother~~; or

191 (c) Neither intended parent can physically gestate a
 192 pregnancy without causing ~~The gestation will cause~~ a risk to the
 193 health of the fetus.

194 Section 6. Paragraph (c) of subsection (4) of section
 195 742.16, Florida Statutes, is amended to read:

196 742.16 Expedited affirmation of parental status for
 197 gestational surrogacy.—

198 (4) Notice of the hearing shall be given by the
 199 commissioning couple to:

200 (c) Any party claiming to be a genetic or intended parent
 201 unless such rights are relinquished pursuant to s. 742.14
 202 paternity.

203 Section 7. This act shall take effect upon becoming a law.