

State-by-State Surrogacy Summary

The Center for Bioethics and Culture

State	Stance of Courts Toward Surrogacy	Intended Parents Marital Status	Money Permitted?	Summary of Law
Alabama	Favorable; one case decided in favor of surrogacy in the interest of the child.	N/A	N/A	Surrogacy exempted from adoption and baby-selling statutes. Ala. Code sec. 26-10A-33, 34.
Alaska	Equated with adoption in one case.	N/A	N/A	N/A
Arizona	Unclear, law prohibiting surrogacy was declared unconstitutional.	N/A	No	Law formerly prohibited surrogacy. Ariz. Rev. Stat. Ann. sec. 25-218.
Arkansas	Favorable	Marriage not required	Yes	In the case of artificial insemination, a child born through a surrogate mother shall be that of: (1) The biological father and the intended mother if the biological father is married; (2) The biological father only if unmarried; or (3) The intended mother if donor sperm was used. The birth mother is presumed the natural mother but a substitute certificate of birth may be issued with court orders. Ark. Code Ann. sec. 9-10-201.
California	Favorable toward traditional and gestational. Looks at intent of parties.	Surrogacy allowed for domestic partnerships.	Yes	N/A
Colorado	Generally favorable.	N/A	N/A	N/A
Connecticut	Generally favorable, especially toward gestational.	Marriage not required.	N/A	N/A
Delaware	Unfavorable.	N/A	N/A	N/A
District of Columbia	No cases since new law came into effect.	No	Yes	Enabling statute: D.C. Code sec. 16-401-412
Florida	Favorable, for medical need, both traditional and gestational are allowed.	Marriage required	No	Gestational allowed under adoption statutes. Traditional allowed only between married couples. Fla. Stat. Ann. sec. 742.11-16.
Georgia	No cases	N/A	N/A	N/A
Hawaii	No cases	N/A	N/A	N/A
Idaho	Possibly favorable; adoption case looks at interests of the child.	N/A	N/A	N/A

Illinois	Favorable for gestational in case of medical need. Traditional not addressed.	No requirement.	Yes	Surrogates must be 21, have given birth to at least one child; complete a medical and a mental health evaluation; undergo legal consultation, and obtain a health insurance policy. The intended parent(s) must contribute at least one of the gametes, have a medical need for the gestational surrogacy, complete a mental health evaluation; and undergo legal consultation. IL ST CH 750 sec. 47/20.
Indiana	Unfavorable, prohibited as against public policy.	N/A	N/A	Against public policy to contract for a surrogate to: (1) Provide a gamete to conceive a child. (2) Become pregnant. (3) Consent to undergo or undergo an abortion. (4) Undergo medical or psychological exams. (5) Use a substance or engage in activity only in accordance with the demands of another person. (6) Waive parental rights or duties to a child. (7) Terminate care, custody, or control of a child. (8) Consent to a stepparent adoption under IC 31-19 IN ST 31-20-1-1, IC 31-20-1-1.
Iowa	Favorable	N/A	N/A	None directly applicable; surrogacy excepted from baby-selling prohibition. Iowa Code sec. 710.11.
Kansas	Opinions of the attorney general say surrogacy is against public policy.	N/A	No	N/A
Kentucky	Uncompensated could be permissible if voidable.	N/A	No	N/A
Louisiana	No cases since law came into effect	Heterosexual marriage required, and the intended parents must be the biological parents (no donor gametes/embryos).	No compensation Expenses may be paid	Enabling statute: La. Rev. Stat. Ann. sec. 9:2718-2720.15.
Maine	No cases.	N/A	N/A	N/A
Maryland	Adoption laws prohibit payment and the attorney general said decisions to grant adoption must look at the interests of the child.	N/A	No	N/A
Massachusetts	Favorable; best interests of the child.	N/A	Unclear	N/A
Michigan	Prohibited; fine of up to \$50,000 and jail time.	N/A	No	Mich. Comp. Laws Ann. sec. 722.851-861 (2009).
Minnesota	Probably favorable; one unpublished opinion determined that the agreement did not violate public policy.	N/A	N/A	N/A
Mississippi	No cases.	N/A	N/A	N/A

Missouri	No cases.	N/A	N/A	None directly applicable, but paid surrogacy could violate the child trafficking law on its face. Mo. Rev. Stat. sec. 568.175.
Montana	No cases.	N/A	N/A	N/A
Nebraska	Will not allow if compensated.	N/A	No	Void/unenforceable if compensated. Biological father has natural father's rights. Neb. Rev. Stat. sec. 25-21,200.
Nevada	Favorable	Marriage required	No	Contract valid by statute, no money, intended parents are natural parents legally, IP married, gestational, egg/sperm from IPs. Nev. Rev. Stat. Ann. sec. 126.045.
New Hampshire	"Friendly and anti-discriminatory"			New law in 2016
New Jersey	Favorable	N/A	Yes	In May 2018, Gov. Murphy signed into law S-482 Gestational Carrier Agreement Act
New Mexico	Does not allow if compensated.	N/A	No	Nothing in this section shall be construed to permit payment to a woman for conceiving and carrying a child. N.M. Stat. Ann. sec. 32A-5-34.
New York	Prohibited, although some case law has recognized parental rights in intended parents.	N/A	N/A	Surrogate parenting contracts are hereby declared contrary to the public policy of this state, and are void and unenforceable. N.Y. Dom. Rel. Law sec. 122 (McKinney)
North Carolina	Favorable, if gestational.	N/A	No	None directly applicable. Adoption law could apply in that it prevents payment for parental rights. N.C. Gen. Stat. Ann. sec. 48-10-102.
North Dakota	Have ruled that the child is the intended parents' child. Gestational allowed.	N/A	N/A	Surrogacy agreements are void and the surrogate and her husband (if any) are the legal parents. N.D. Cent. Code Ann. sec. 14-18-05. However, a child born to a gestational carrier is a child of the intended parents. N.D. Cent. Code Ann. sec. 14-18-08.
Ohio	Some surrogacy agreements have been approved.	N/A	N/A	Law is unsettled.
Oklahoma	Attorney general's opinion suggests paid surrogacy may fall under child trafficking prohibition.	N/A	No	None directly applicable, but trafficking laws forbid payment in connection with the transfer of the legal or physical custody or adoption of a minor. Okla. Stat. Ann. tit. 21, sec. 866.
Oregon	Not allowed if compensated.	N/A	No	Trafficking law has an exception for fees for an adoption or surrogacy suggesting expenses are okay but implying extra payment is not. Or. Rev. Stat. Ann. sec. 163.537 (West)
Pennsylvania	Uncompensated surrogacy is probably allowed. Some rulings favorable, others not.	N/A	Unclear but probably not.	Unclear
Rhode Island	Favorable toward gestational before 2010.	N/A	N/A	None applicable. The statute prohibiting cloning had a reproductive technology exception for gestational surrogacy, but it expired in July of 2010. R.I. Gen. Laws sec. 23- 16.4-2, 4.

South Carolina	Favorable.	N/A	N/A	N/A
South Dakota	No cases	N/A	N/A	N/A
Tennessee	Honors prior agreements.	Marriage required	N/A	Surrogate birth: wife's egg and the husband's sperm in a surrogate or the insemination of a woman by the sperm of a man under a contract by which the parties state their intent that the woman who carries the fetus shall relinquish the child to the biological father and the biological father's wife to parent. Tenn. Code Ann. sec. 36-1-102.
Texas	Favorable if gestational	Marriage required	Yes	Gestational allowed with prior court approval. Tex. Fam. Code Ann. sec. 160.754.
Utah	Favorable if one parent is genetically related to the child.	Marriage required	Yes	Agreement must be validated by court. Utah Code Ann. sec. 78b- 15-801 To - 809 (2009); Utah Code Ann. sec.78-30-1(3) (2009);
Vermont	Favorable.	N/A	N/A	The state has argued that restricting marriage to man-woman couples would reduce complications with surrogacy. Vt. Stat. Ann. tit. 15A sec. 1-102(b) (2009); Baker v. State, 170 Vt. 194 (Vt. 1999).
Virginia	Favorable if not compensated and for medical need.	Marriage required	No	Many restrictions on surrogacy agreements, including court approval requirement. Va. Code Ann. sec. 20-158.
Washington	Favorable if uncompensated.	Two-parent family not required.	No	Balancing test from child's relationship. Wash. Rev. Code sec. 26.26.101; Wash. Rev. Code sec. 26.26.210 Et Seq.
West Virginia	No cases.	N/A	N/A	Law prohibiting sale of child makes a surrogacy exception. W. Va. Code sec. 48-22-803(e)(3).
Wisconsin	One case upheld parental rights of a father not biologically related to his child.	N/A	N/A	If a baby is born to a surrogate mother, the surrogate mother is on the birth certificate unless a court determines parental rights over the baby. Wis. Stat. Ann. sec. 69.14.
Wyoming	No cases.	N/A	N/A	N/A