

Assembly Bill No. 2426

CHAPTER 138

An act to add Part 7 (commencing with Section 7960) to Division 12 of the Family Code, relating to surrogacy facilitators.

[Approved by Governor August 13, 2010. Filed with Secretary of State August 13, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2426, Bradford. Surrogacy facilitators.

Existing law defines "assisted reproduction" as conception by any means other than sexual intercourse, and "assisted reproduction agreement" as a written contract that includes a person who intends to be the legal parent of a child or children born through assisted reproduction and that defines the terms of the relationship between the parties to the contract.

This bill would regulate the practice of surrogacy facilitators, as defined, and would require a nonattorney surrogacy facilitator to direct his or her client to deposit client funds in an independent, bonded escrow account or a trust account maintained by an attorney, subject to specified withdrawal requirements.

The people of the State of California do enact as follows:

SECTION 1. Part 7 (commencing with Section 7960) is added to Division 12 of the Family Code, to read:

PART 7. SURROGACY FACILITATORS

7960. For purposes of this part, the following terms have the following meanings:

(a) "Surrogacy facilitator" means a person or organization that engages in either of the following activities:

(1) Advertising for the purpose of soliciting parties to an assisted reproduction agreement or acting as an intermediary between the parties to an assisted reproduction agreement.

(2) Charging a fee or other valuable consideration for services rendered relating to an assisted reproduction agreement.

(b) "Nonattorney surrogacy facilitator" means a surrogacy practitioner who is not an attorney in good standing licensed to practice law in this state.

(c) "Assisted reproduction agreement" has the same meaning as defined in subdivision (b) of Section 7606.

(d) “Fund management agreement” means the agreement between the intended parents and the surrogacy facilitator relating to the fee or other valuable consideration for services rendered or that will be rendered by the surrogacy facilitator.

7961. (a) A nonattorney surrogacy facilitator shall direct the client to deposit all client funds into either of the following:

(1) An independent, bonded escrow depository maintained by a licensed, independent, bonded escrow company.

(2) A trust account maintained by an attorney.

(b) For purposes of this section, a nonattorney surrogacy facilitator may not have a financial interest in any escrow company holding client funds. A nonattorney surrogacy facilitator and any of its directors or employees shall not be an agent of any escrow company holding client funds.

(c) Client funds may only be disbursed by the attorney or escrow agent as set forth in the assisted reproduction agreement and fund management agreement.

(d) This section shall not apply to funds that are both of the following:

(1) Not provided for in the fund management agreement.

(2) Paid directly to a medical doctor for medical services or a psychologist for psychological services.