

# HOUSE BILL No. 5350

February 20, 2014, Introduced by Reps. Cochran, Cavanagh, Knezek, Brinks, Faris, Townsend, Phelps, Smiley, Brunner, Yanez, Lamonte, Dillon, Dianda, Kivela, Slavens, Segal, Irwin, Schor, Banks, Darany, Foster, Lyons, Somerville, Kelly, Yonker, Muxlow, Pagel, Heise, Hooker, Hovey-Wright, Price, Zemke, Haines, Crawford, Singh, Poleski, Graves, Lori, McCready, O'Brien, Cotter, Leonard, Geiss and Tlaib and referred to the Committee on Health Policy.

A bill to amend 1988 PA 199, entitled  
"Surrogate parenting act,"  
by amending sections 3, 7, and 9 (MCL 722.853, 722.857, and  
722.859), section 3 as amended by 1990 PA 190.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3. As used in this act:

(a) "Compensation" means a payment of money, objects,  
services, or anything else having monetary value except payment of  
expenses incurred as a result of the pregnancy and the actual  
medical expenses of a surrogate mother or surrogate carrier.

(b) "Developmental disability" means that term as defined in  
**SECTION 100A OF** the mental health code, ~~Act No. 258 of the Public~~

~~Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan  
Compiled Laws. 1974 PA 258, MCL 330.1100A.~~

(C) "INTELLECTUALLY DISABLED" MEANS INTELLECTUAL DISABILITY AS  
THAT TERM IS DEFINED IN SECTION 100B OF THE MENTAL HEALTH CODE,  
1974 PA 258, MCL 330.1100B.

(D) ~~(e)~~ "Mental illness" means that term as defined in **SECTION**  
**400 OF** the mental health code, ~~Act No. 258 of the Public Acts of~~  
~~1974. 1974 PA 258, MCL 330.1400.~~

~~(d) "Mentally retarded" means that term as defined in the  
mental health code, Act No. 258 of the Public Acts of 1974.~~

(e) "Participating party" means a biological mother,  
biological father, surrogate carrier, or the spouse of a biological  
mother, biological father, or surrogate carrier, if any.

(f) "Surrogate carrier" means the female in whom an embryo is  
implanted in a surrogate gestation procedure.

(g) "Surrogate gestation" means the implantation in a female  
of an embryo not genetically related to that female and subsequent  
gestation of a child by that female.

(h) "Surrogate mother" means a female who is naturally or  
artificially inseminated and who subsequently gestates a child  
conceived through the insemination ~~pursuant~~ **ACCORDING** to a  
surrogate parentage contract.

(i) "Surrogate parentage contract" means a contract,  
agreement, or arrangement in which a female agrees to conceive a  
child through natural or artificial insemination, or in which a  
female agrees to surrogate gestation, and to voluntarily relinquish  
her parental or custodial rights to the child. It is presumed that

1 a contract, agreement, or arrangement in which a female agrees to  
2 conceive a child through natural or artificial insemination by a  
3 person other than her husband, or in which a female agrees to  
4 surrogate gestation, includes a provision, whether or not express,  
5 that the female will relinquish her parental or custodial rights to  
6 the child.

7       Sec. 7. (1) A person shall not enter into, induce, arrange,  
8 procure, or otherwise assist in the formation of a surrogate  
9 parentage contract under which an unemancipated minor female or a  
10 female diagnosed as being ~~mentally-retarded~~ **INTELLECTUALLY DISABLED**  
11 or as having a mental illness or developmental disability is the  
12 surrogate mother or surrogate carrier.

13       (2) A person other than an unemancipated minor female or a  
14 female diagnosed as being ~~mentally-retarded~~ **INTELLECTUALLY DISABLED**  
15 or as having a mental illness or developmental disability who  
16 enters into, induces, arranges, procures, or otherwise assists in  
17 the formation of a contract described in subsection (1) is guilty  
18 of a felony punishable by a fine of not more than \$50,000.00 or  
19 imprisonment for not more than 5 years, or both.

20       Sec. 9. (1) A person shall not enter into, induce, arrange,  
21 procure, or otherwise assist in the formation of a surrogate  
22 parentage contract for compensation.

23       (2) A participating party other than an unemancipated minor  
24 female or a female diagnosed as being ~~mentally-retarded~~  
25 **INTELLECTUALLY DISABLED** or as having a mental illness or  
26 developmental disability who knowingly enters into a surrogate  
27 parentage contract for compensation is guilty of a misdemeanor

1 punishable by a fine of not more than \$10,000.00 or imprisonment  
2 for not more than 1 year, or both.

3 (3) A person other than a participating party who induces,  
4 arranges, procures, or otherwise assists in the formation of a  
5 surrogate parentage contract for compensation is guilty of a felony  
6 punishable by a fine of not more than \$50,000.00 or imprisonment  
7 for not more than 5 years, or both.