

LEXSTAT FLA. STAT. § 742.16

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TITLE 43. DOMESTIC RELATIONS
CHAPTER 742. DETERMINATION OF PARENTAGE

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Fla. Stat. § 742.16 (2003)

§ 742.16. Expedited affirmation of parental status for gestational surrogacy

(1) Within 3 days after the birth of a child delivered of a gestational surrogate, the commissioning couple shall petition a court of competent jurisdiction for an expedited affirmation of parental status.

(2) After the petition is filed, the court shall fix a time and place for hearing the petition, which may be immediately after the filing of the petition. Notice of hearing shall be given as prescribed by the rules of civil procedure, and service of process shall be made as specified by law for civil actions.

(3) Upon a showing by the commissioning couple or the child or the gestational surrogate that privacy rights may be endangered, the court may order the names of the commissioning couple or the child or the gestational surrogate, or any combination thereof, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

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

- (a) The gestational surrogate.
- (b) The treating physician of the assisted reproductive technology program.
- (c) Any party claiming paternity.

(5) All hearings held in proceedings under this section shall be held in closed court without admittance of any person other than essential officers of the court, the parties, witnesses, and any persons who have received notice of the hearing.

(6) The commissioning couple or their legal representative shall appear at the hearing on the petition. At the conclusion of the hearing, after the court has determined that a binding and enforceable gestational surrogacy contract has been executed pursuant to *s. 742.15* and that at least one member of the commissioning couple is the genetic parent of the child, the court shall enter an order stating that the commissioning couple are the legal parents of the child.

(7) When at least one member of the commissioning couple is the genetic parent of the child, the commissioning couple shall be presumed to be the natural parents of the child.

(8) Within 30 days after entry of the order, the clerk of the court shall prepare a certified statement of the order for the state registrar of vital statistics on a form provided by the registrar. The court shall thereupon enter an order requiring the Department of Health to issue a new birth certificate naming the commissioning couple as parents and requiring the department to seal the original birth certificate.

(9) All papers and records pertaining to the affirmation of parental status, including the original birth certificate, are confidential and exempt from the provisions of *s. 119.07(1)* and subject to inspection only upon order of the court. The court files, records, and papers shall be indexed only in the name of the petitioner, and the name of the child shall not be noted on any docket, index, or other record outside the court file.

HISTORY: s. 2, ch. 93-237; s. 416, ch. 96-406; s. 115, ch. 97-237.

LexisNexis (TM) Notes:

TREATISES AND ANALYTICAL MATERIALS

1. *5-91 Florida Family Law § 91.13*, Preplanned Adoption Arrangements, Florida Family Law
2. *5-91 Florida Family Law § 91.14*, Gestational Surrogacy Contracts, Florida Family Law

LAW REVIEWS

1. *26 Fla. St. U.L. Rev. 219*, ARTICLE: QUASI-MARITAL CHILDREN: THE COMMON LAW'S FAILURE IN PRIVETTE AND DANIEL CALLS FOR STATUTORY REFORM, Winter, 1999