



# 2018 New York State YMCA

## Youth And Government

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Committee Assignment:

Senate 2

Bill #: S-10

1 **Sponsors:** Haley Cruz, Hailey Loughlin, Emily Mehnert

2

3 **An Act To**

4 Amend §123, subsection 2b of the Domestic Relations Law to lift the ban on  
5 compensated gestational surrogacy.

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7 *The People of the State of New York, represented in the Senate and Assembly do enact as follows:*

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9 **Purpose**

10 The purpose of our bill is to lift the ban on compensated gestational surrogacy in  
11 order to financially assist those who carry our children.

12 **Summary of Provisions**

13 **Section 1: Definitions**

14 **Gestational surrogacy:** An arrangement in which a woman carries and delivers a  
15 baby for another person or couple.

16 **Compensation:** Payment of any valuable consideration for time, effort, pain and/or  
17 risk to health in excess of reasonable medical and ancillary costs.

18 **Gestational agreement:** A contract between an intended parent and a gestational  
19 carrier intended to result in a live birth where the child will be the legal child of the  
20 intended parent.

21 **Gestational carrier:** An adult person not an intended parent, who enters into a  
22 gestational agreement to bear a child who will be the legal child of the intended  
23 parent so long as she has not provided the egg used to conceive the resulting child.

24 **Section 2**

25 ~~123. Prohibitions and penalties. 2(b) Any other person or entity who or which~~  
26 ~~induces, arranges or otherwise assists in the formation of a surrogate parenting~~  
27 ~~contract for a fee, compensation or other remuneration or otherwise violates this~~  
28 ~~section shall be subject to a civil penalty not to exceed ten thousand dollars and~~  
29 ~~forfeiture to the state of any such fee, compensation or~~  
30 ~~remuneration in accordance with the provisions of subdivision (a) of section~~  
31 ~~seven thousand two hundred one of the civil practice law and~~

32 ~~rules, for the first such offense. Any person or entity who or which induces,~~  
33 ~~arranges or otherwise assists in the formation of a surrogate parenting contract for~~  
34 ~~a fee compensation or other remuneration or otherwise violates this section, after~~  
35 ~~having been once subject to a civil penalty for violating this section, shall be guilty~~  
36 ~~of a felony. The agreement of the intended parent to pay reasonable compensation~~  
37 ~~to the gestational carrier in excess of reasonable medical and ancillary cost shall~~  
38 ~~not be a bar to the insurance of a judgement of parentage.~~

39 **Justification**

40 Currently in New York State, compensated surrogacy is illegal and is one of the only  
41 states where criminal penalties can be imposed on people who enter into a paid  
42 surrogacy agreement. However, for many couples, gestational surrogacy is one of  
43 the only options for starting or growing a family. New York is one of only six states  
44 in which compensating a surrogate is illegal. By compensating surrogates, we can  
45 ensure that the prospective surrogate will have the money necessary to pay for any

46 and all medical bills while carrying the child or children. This will guarantee that not  
47 only the surrogate but also the child will be properly cared for. Overall, 29.1% of  
48 gestational carrier cycles by United States residents were performed in a state  
49 other than the state of residence of the intended parent because of the fact that  
50 one can face criminal penalties for compensated surrogacy. California is one of the  
51 44 states that allow compensated surrogacy and they've had the highest number of  
52 gestational carrier cycles in the country.

53 **Fiscal Implications**

54 This bill has no fiscal implications to the state, however; the compensation of the  
55 surrogate will come from the intended parents of the child being carried. The cost  
56 of gestational surrogacy is between \$38,000 – \$42,000 which would be considered  
57 as income, bringing revenue to the state through taxes.

58 **Effective Date**

59 The law will go into effect one year after the law is passed.