**§1938. Effect of noncompliance; standard of review; remedies**

**1. Not enforceable.**  Except as otherwise provided, a gestational carrier agreement that does not meet the requirements of this subchapter is not enforceable.

[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**2. Standard of review.**  In the event of noncompliance with the requirements of this subchapter or with a gestational carrier agreement, a court shall determine the respective rights and obligations of the parties to the gestational carrier agreement, including evidence of the intent of the parties at the time of execution.

[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**3. Remedies.**  Except as expressly provided in a gestational carrier agreement and in subsection 4, in the event of a breach of the gestational carrier agreement by the gestational carrier or the intended parent or parents, the gestational carrier or the intended parent or parents are entitled to all remedies available at law or in equity.

[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**4. Genetic testing.**  If the parentage of a child born to a gestational carrier is alleged to not be the result of assisted reproduction, and this question is relevant to the determination of parentage, the court may order genetic testing.

[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

**5. Specific performance.**  Specific performance is not an available remedy for a breach by the gestational carrier of any term in a gestational carrier agreement that requires the gestational carrier to be impregnated or to terminate a pregnancy. Specific performance is an available remedy for a breach by the gestational carrier of any term that prevents the intended parent or parents from exercising the full rights of parentage immediately upon birth of the child.

[PL 2015, c. 296, Pt. A, §1 (NEW); PL 2015, c. 296, Pt. D, §1 (AFF).]

SECTION HISTORY

PL 2015, c. 296, Pt. A, §1 (NEW). PL 2015, c. 296, Pt. D, §1 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025
. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.