

Sent: Thursday, 5 June 2008 6:35 PM

To: Surrogacy Committee

Subject: Online Submission - Investigation into Altruistic Surrogacy Committee

SUBMISSION

Should the legal restrictions and criminal penalties against altruistic surrogacy be removed from the *Surrogate Parenthood Act 1988 (Qld)*?

Yes. Surrogacy arrangements are becoming much more common, and are often the only way for some loving couples to have children of their own. Many Australian couples are already going out of state, and out of the country for the opportunity to raise a child. This is especially true with the extremely small numbers of children available for adoption within Australia. It's just time for the government to face the facts and recognise new variations of families.

Should the Queensland Government play a role in regulating altruistic surrogacy arrangements in Queensland?

Contracts need to be standardised and enforceable. Making it legal will reduce the number of home inseminations which have greater risk of disease transmission. The commissioning parents need to be recognised as birth parents, or at least both will need the parental rights to make decisions with regards to the child's upbringing.

What other issues should be addressed by the Government?

Please consider same-sex couples and allow partners to do a step-parent adoption. Recognising parents as parents makes families stronger, emotionally and legally. Please also consider male same-sex couples, who certainly can make great parents judging by the determination they have to become parents. My partner and I went through the surrogacy process and now have a wonderful, bright, and happy child. We are a family, just as any other, and are accepted by friends, neighbors, and others, without a single negative experience. However, as a same-sex couple, my partner has no legal rights to his own son under Queensland law because he is not biologically related. In fact, under Queensland law, our surrogate, who did not want anything to do with the child, would be named the mother, and I, as a mere sperm donor, may not even be named as the father. This is ridiculous and undermines a minority of true, loving families. To reiterate, the commissioning parents need to be legally recognised as parents for the sake of their children.

What criteria, if any, should the commissioning parent/s and/or surrogate have to meet before entering into an altruistic surrogacy arrangement?

should be married or recognised as being in a same-sex relationship. Certain criminal history, such as crimes against minors, should be checked.

Should criteria for commissioning parents be similar to that for adoptive parents?

No, especially when you consider that all kinds of people have children all the time, many of them accidental or unwanted. Two people dedicated enough to go through the surrogacy experience can care for a child as much or more than those who can have children on a whim.

What role should a genetic relationship between the child and the commissioning parent/s and/or surrogate play in an altruistic surrogacy arrangement?

In our personal case, the biological mother/surrogate, wants nothing to do with the child, and we still found it next to impossible to remove her rights. It is my belief, and becoming a recognised consensus, that biology means very little; parents are the people who love, nurture, discipline, teach, and care for a child. Everything should be based on the wishes of the parties involved. Some sperm donors and surrogates want to remain in contact. The commissioning parents need to agree and it should be spelled out in the contract.

Should at least one of the commissioning parents have a genetic relationship with the child?

I would think everyone would want it this way, unless for some reason both commissioning parents were somehow infertile.

Should the surrogate be able to use her gametes or should she have no genetic relationship to the child?

Either way, although the surrogate may not feel as attached to the child if it was from a donor. Our surrogate used her own and was able to relinquish the child without difficulty.

What legal rights and responsibilities should be imposed upon the commissioning parent/s and/or surrogate?

ART should be allowed for married, de facto and same-sex couples, ideally married or formally registered. Legal parentage should follow the details of the contract, namely that the commissioning parents have full parental rights. It is very fair for commissioning parents to pay for reasonable expenses (medical, clothing, food, lost wages, etc) The surrogate is already doing a good deed, and will be going through a lot of stress and pain. It's only fair to ease the burden, if not compensate. I don't see any problem with compensation considering how much the surrogate goes through. Family Court should handle disagreements and contractual enforcement. Advertising should be allowed as all parties are willing and consenting adults.

Should the definition of altruistic surrogacy only include pre-conception agreements in Queensland?

I would think pre-conception agreements would be the way to go in order to prevent baby buying, but I will defer to the legal experts.

If infertility and/or health risk to the mother or child is a criterion for surrogacy, how should these criteria be defined?

I would think any sort of documented infertility or health risk would be acceptable. Same-sex couples would obviously not need these criteria.

How well does the transfer of legal parentage in a surrogacy arrangement fit with contemporary approaches in family law and adoption?

These days, it works just fine. It is already common in America and Europe. Australian's (as well as Queenslanders) are more progressive than the politicians seem to think.

How important is it for there to be a mechanism for the transfer of legal parentage that is specific to surrogacy arrangements? What would this be?

California has a very efficient system for surrogacy. They simply submit the contract with the court beforehand, then when the child is born, it just flows through with the commissioning parents' name on the birth certificate.

What are the consequences for children born of a surrogacy arrangement in Queensland of maintaining the status quo?

I'm not sure I understand the question. Society is always changing, and it would be irrational for the government to continue ignoring what is becoming more and more common. Australians are utilising surrogacy despite the government being slow to recognise it.

Should the surrogate's rights to be automatically recorded as the child's parent on the birth certificate and to approve legal transfer after birth remain if she has no genetic connection to the child?

if she has no genetic connection, it doesn't make sense to put her on the birth certificate, only to have her removed again.

What rights should a child born through an altruistic surrogacy arrangement have to access information relating his or her genetic parentage? Who should hold this information?

I think it is a private matter, up to the contracting parties to decide and release as they wish.

What, if any, other matters should be considered in the regulation of this issue?

Please don't be like NSW and only recognise women as parents. Men can be just as loving and capable. Anyone who knows my partner and I can tell you that we are about as loving and dedicated as parents get. Surrogate families exist. Please strengthen these families instead of restricting parental rights and putting the parents and child in a legally precarious position.