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24.06.2025

The Commissioner
Australian Law Reform Commission
PO Box 209
Flinders Lane
Victoria 8009
Email: surrogacy@alrc.gov.au

Dear Commissioner,

SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION – REVIEW OF AUSTRALIA'S SURROGACY LAWS

I am making this submission to contribute to the Australian Law Reform Commission's review of Australia's surrogacy laws. I am an intended parent and I have found Surrogacy the only path to having a child in family that will bring love, happiness and with permanency after many years of waiting and heartbreak when raising children through foster care and permanent care over a 12 year period.

I have read the Issues Paper and have responded to the questions posed in the paper below.

I seek that my submission be published.

[Note that the Issues Paper contains further detail for each question. You should read the Issues Paper alongside the questions.]

1. If you or someone close to you has had personal experience of surrogacy, please describe:
    - What parts of your experience were positive?

The positive experiences to Surrogacy:

- Meeting similar people who share the same journey and have been welcoming, supportive and open about their experiences and reasons for

why they are on their surrogacy journey (from both the IP's and Surrogate POV).

- The ability to choose our own path on how we wish to achieve our goal of having a family. This was something for which my wife and I did not have when going through our journey of caring for a child or children via Foster Care and Permanent Care in Australia. It was strictly governed, time consuming and more importantly, heart breaking when we had to relinquish the children once we as carers were no longer required to care for them or deemed unfit to care for the child(s) due to certain health issues out of our control.

- What parts of your experience were negative?

The negative experiences relating to Surrogacy in Australia are:

- The inability to advertise for a surrogate, along with compensate the surrogate for their willingness to sacrifice their time and possibly their life to create a child for a couple who is not able to conceive a child of their own naturally.

- The lack of access to information related to Surrogacy in Australia, along with the various state laws which makes it mind numbing and almost impossible to even want to consider creating a child in Australia.

- Some health services in Australia don't acknowledge or support Surrogacy. Examples of this relate to IP's unable to seek private health insurances to cover surrogacy costs, another example is the inability to create embryos unless they have a surrogate available during the fertility treatment process.

- Individual or couples are being labelled as criminals for conducting overseas Surrogacy arrangements when they have tried to create a family under restrictive Australian state Surrogacy laws. They simply want to create a child and overseas offers this in a way that can be done via a regulated matching agency for greater success of having a family. The only concerns are getting parentage orders successfully acknowledged in Australia when conducting overseas Surrogacy.

- Most importantly, the lack of Surrogates available in Australia who are willing to assist the many IP's so desperately wanting to start a family for various reasons (i.e. being in a same sex relationship, couples having health issues that stop them from having a pregnancy naturally etc.). It's no wonder people are going international to seek help in creating a child

given how outdated and not streamlined the Australian surrogacy laws are in the year, 2025.

- What could be improved and how?

- The need to streamline the Surrogacy laws throughout Australia to make it more uniformed. This would enable everyone going through this journey one set of rules to abide by and avoid confusion regardless of where they live in Australia.
- Decriminalise international commercial surrogacy. Why should parents be marked as criminals for having a baby overseas.
- The ability to advertise and compensate Surrogates for better chances of starting an Surrogacy journey sooner and without the need to compete for a chance in find a surrogate by chance. It seriously feels like you are winning a lottery ticket to have this chance.
- Make parentage orders possible before pre-birth to eliminate the possibility of the Surrogate not wanting to sign over the child after birth (even if it is unlikely to be the case).
- Allow for a surrogate matching service that enables higher rates of domestic surrogacy for IP's who would otherwise consider overseas surrogacy to enable their ability to have a family sooner. Of course, we would want these surrogate matching services in Australia to be accredited and regulated to avoid any corruption and inability for IP's to simply not access this service due to excessive costs that incur with this service.
- Better promotion of Surrogacy in Australia. So many people I have spoken to know nothing about Surrogacy or have misinformation around what is and isn't allowed which can make it difficult to seek assistance for what could be a possible surrogate within our circle of friends, family or community.

2. What reform principles should guide this Inquiry?

The following principles found in the issues paper, I agree that this law reform should include the following:

- The rights of persons with disabilities for IP's
- The right to freedom from discrimination for IP's and Surrogates
- Work rights for Surrogates
- The right of the child to preserve their identity and nationality for the child
- The right of the child to be cared for by their parents,15 and the right to privacy, family, and home for the child

- The prohibition on the sale of children
- The rights of the child as paramount
- Harmonisation of Surrogacy laws throughout Australia
- Accessibility of Surrogacy for IP's
- Harm Minimisation for Surrogacy arrangements for IP's

3. What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements and how should these be addressed?

4. What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided / facilitated?

5. What do you think are the main barriers that prevent people from entering into surrogacy arrangements in Australia, and how could these be overcome?

- Lack of Surrogates available, more IP's in Australia
- Unknown timeframe of when/if you will complete a successful Surrogacy journey.
- Inability to compensate or advertise for a Surrogate.
- Despite discussing with family and friends around Surrogacy, they have their health issues or unwillingness to carry a child.
- Too many legal obstacles in each state that makes it difficult to navigate and sometime want to consider surrogacy in Australia.

These issues could be addressed via the following:

- Surrogacy laws that are consistent/uniform throughout each of the Australian states
- The ability to have an agency who can govern the Surrogacy arrangements to enable better matching of IP's with Surrogates and ensure that all

6. Should there be eligibility criteria for surrogacy? If so, what should those requirements be?

    - Surrogacy should be available to people who meet the following conditions:
        - Fertility or health issues that restrict a persons ability to carry a child.
        - Same sex couples.

7. Are there any current requirements which should be changed or removed?

    - Establishing consistent requirements nationally for a valid surrogacy agreement and make it enforceable.

8. Are there any requirements for a valid surrogacy agreement you think should be added, removed or changed?

9. Should surrogacy agreements be enforceable?

    Absolutely! Without Surrogacy agreements between both parties, this was cause the Surrogacy journey to possible complications around initial arrangements discussed between the Surrogate and IP and open a can of worms for all types of troubles during and after the birth of a child.

10. What process requirements should be in place for surrogacy arrangements?

    Both parties (i.e. Surrogates and IP's) should perform the following:

    - Counselling
    - Psychological assessments
    - Legal advice
    - Criminal history reports

11. What are the gaps in professional services for surrogacy in Australia?

- It would be great to have a Surrogacy agency's that is trusted, legalized and monitored to prevent misconduct and financial abuse to IP's.

12. What is the best way for professional services for surrogacy to operate?

The Surrogacy agency's could be a great source of information for legal information, profile matching and guidance around Surrogacy arrangements in Australia. If this was made available as an affordable agency for both IP's and Surrogates would be beneficial.

13. How should surrogacy advertising be regulated?

As an IP, It would be great to advertise that you are looking for a Surrogate to create a family. These limitations cause difficulty to seek a Surrogate who may be in our community or abroad. I don't understand why its ok to advertise for foster carers on billboards, buses, radio adverts and yet we can't do the same for Surrogacy. It's not everyone's first preference to go down this path and may be their only chance to fulfill their family dream and extend their family with the connection made via the Surrogates family.

14. What entitlements, if any, should be available to surrogates and intended parents?

- Enabling both Surrogates and IP's the same medicare rebates that a traditional couple would be eligible for all fertility treatments to be covered.
- Allowing both Surrogates and IP's to have access to Centrelink's Paid Parental Leave scheme, as well as 12 months of unpaid parental leave under the National Employment Standards (NES).
- Ensuring that surrogates have adequate leave to manage the experience of pregnancy and birth could be an important part of making domestic surrogacy arrangements more accessible.
- Making Surrogacy arrangements affordable.

15. How could the process for reimbursing surrogates for reasonable expenses be improved?

Compensated surrogacy would be a preferred choice as it would hopefully enable better uptake of Surrogates who have put their lives on hold to assist another family, couple or single IP's who acknowledge the Surrogate as not only a friend but a hero who has accepted the risks associated with pregnancy.

I still appreciate that the IP's should cover other expenses (i.e. medical, legal, other reasonable out of pocket expenses) throughout the trimesters to ensure the Surrogate is well supported throughout the Surrogacy journey.

There should be a maximum limit for compensated surrogacy to avoid Surrogates from doing it for the wrong reasons (i.e. financial gains).

16. Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy?

    I feel the compensated surrogacy is a reasonable way of acknowledging and showing appreciating a Surrogate for their ability to assist them in the creation of a child.

    Commercial surrogacy would enable more surrogate uptake too but possibly for the wrong reasons (i.e. no connection with the IP's and financial gains).

17. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?

    I feel that there should be a set limit for expenditure for the surrogate to access and should be managed by a Trust who can manage expenses and follow a guide of appropriate expenses that will be covered by the IP's. This would avoid any potential uncomfortableness from the Surrogate asking for funds to cover expenses related to the Surrogacy.

As for the calculation of a compensated surrogacy, I feel that the following should be assessed to determine a total sum:

- Loss of job income whilst on Maternity leave
- Agreements of services needed to support the surrogacy
- An agreed upon monthly payment that the Surrogate would receive regardless of a successful birth or not.

18. What are the main problems with the requirements and processes for obtaining legal parentage for a child born through domestic and/or international surrogacy?

Can't comment as I am not fully aware of this step at the moment.

19. How could the process for intended parents to become the legal parents of children born through surrogacy be improved?

Can't comment as I am not fully aware of this step at the moment.

20. What, if any, are the main problems with obtaining the following documents for a child born through international surrogacy:

a. Australian citizenship;
b. an Australian passport; or
c. an Australian visa.

Can't comment as I am not fully aware of this step at the moment.

21. How could the process for obtaining these documents be improved?

Can't comment as I am not fully aware of this step at the moment.

22. What is the best way to approach differences in surrogacy regulation between or within jurisdictions?

Not sure how to respond to this comment.

23. Is it appropriate for surrogacy arrangements to be subject to oversight? If so, what is the best approach?

Not sure how to respond to this comment

24. Should the law have a role in discouraging or prohibiting certain forms of surrogacy?

Removing criminality to domestic and international surrogacy arrangements would eliminate dysregulation on the raising of a child due to laws imposed to protect children born out of love and due to the inability to create new life within Australia and having to travel abroad for this dream to become a reality.

It will also eliminate the issues surrounding acquiring entry into Australia for a child born overseas and obtaining parentage order to recognise the biological parents of the child.

25. Do you think there is a need to improve awareness and understanding of surrogacy laws, policies, and practices?

Absolutely! The current state of laws for each state makes it confusing but also, the need to seek legal advise to be better informed of what is and isn't allowable in a Surrogacy journey is crazy. Why can't we simply have a guide/policy that is streamlined for all Australian states and made available to the public for referencing.

Also, some of the medical clinics offer different forms of advice around allowable IVF treatments which limits a couples ability to have a successful surrogacy journey (i.e. inability to create embryo's in a public hospital without a surrogate made available)

26. Do you have any views about the issues we consider to be in or out of scope?

27. Are there any important issues with regulating surrogacy that we have not identified in the Issues Paper? Do you have any other ideas for reforming how surrogacy is regulated?

Change of the following:

- In Victoria, legal parentage is transferred only after a County Court order post-birth, creating a prolonged period where the intended parents are not legally recognized. Let's make this possible to acquire before the birth of the child to remove limitations/delays in medical supports and to recognize that the child was born through the help of another person's body but shares no biological connection to the child.
- Fund mental health support tailored to surrogates, intended parents, and donor-conceived children.
- Enable better public education and ethical awareness campaigns to reduce stigma and increase informed surrogate interest.

Thank you for considering my submission.

Yours Faithfully,

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