Submission to the Australian Law Reform Commission – Review of Surrogacy Laws

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Date: 9 July 2025

To whom it may concern,

Thank you for the opportunity to provide input into the important inquiry on the Review of Surrogacy Laws. I make this submission as an intended parent with a lived experience and a deep commitment to ensuring Australia's surrogacy laws reflect fairness, inclusion, and the best interest of children.

My Connection to Surrogacy

I am a member of the LGBTQ+ community and a future intended parent looking to grow my family through surrogacy. I along with my partner are lucky enough to have met our surrogate here in Australia who agreed some years ago to help us in our journey to make our dreams of becoming parents true. This is not the experience that many same-sex couples and LGBTQ+ families in Australia have faced or continue to face.

The Current Legal Landscape – Challenges for LGBTQ+ Families

Despite social progress, Australia's surrogacy laws remain fragmented, inconsistent, and in many respects discriminatory – particular toward same-sex couples and LGBTQ+ individuals.

Key issues include:

- **Unequal Access Across States and Territories:** Varying eligibility requirements across jurisdictions create a postcode lottery for LGBTQ+ people. Some states restrict access to altruistic surrogacy for single people or same-sex couples, which violates principles of equality and non-discrimination.
- **Delayed Legal Parentage:** Intended parents – especially male same-sex couples – must wait months post-birth to obtain legal recognition, even when there is no dispute. During this time, they may lack the legal authority to make decisions for their child.
- **Criminalisation of International Surrogacy:** In some states, LGBTQ+ parents are forced to risk criminal charges if they pursue international commercial surrogacy arrangements when local options are unavailable or inaccessible.
- **Lack of Clarity on Reimbursement:** Current laws are vague and inconsistent about what expenses can be reimbursed to surrogates. This creates uncertainty and can inadvertently penalise well-intentioned families and surrogates.
- **No National Registry for Surrogates and Donors:** Children born through surrogacy deserve access to information about their origins. Yet there is no consistent national mechanism for preserving or accessing this important information.

These challenges are not theoretical. They impact real people, real families and real children. They hinder our ability to form families safely and legally, and they compromise the wellbeing and rights of everyone involved – especially the child.

Linking Challenges to ALRC Themes
The ALRC's Issues Paper correctly identifies the need for reform under key thematic areas. Our lived experience demonstrates the urgency of:

- **Access and Eligibility:** Surrogacy laws must reflect the diversity of Australian families. Barriers based on relationship status, sexual orientation, or state of residence are arbitrary and unjustified.
- **Legal Parentage:** Delayed or denied parentage undermines family security. A child's legal recognition of their parents should occur from birth, reflecting their lived reality.
- **Reimbursement and Fairness:** Surrogates should be supported, not financially burdened. National clarity on reimbursable expenses is essential to protect both surrogates and intended parents.
- **International Surrogacy and Human Rights:** Criminalising international surrogacy arrangements, especially when no ethical local options exist, punishes parents and jeopardises children. We must uphold the rights of children to family life, identity, and legal security, regardless of where they were born.
- **Human Rights and Equality:** Australia's obligations under international human rights law – especially the CRC and ICCPR – require that all children are treated equally and that families are not discriminated against on the basis of sexual orientation or gender.

Recommendations for Reform
To ensure all Australian families are treated with dignity, equality and compassion, I urge the Commission to recommend the following:

1. **A National Surrogacy Framework:**
   Establish uniform, inclusive laws across all states and territories. Surrogacy access should be based on need and suitability, not geography or sexual orientation.

2. **Automatic Legal Parentage at Birth:**
   Intended parents, with the consent of the surrogate, should be recognised as legal parents from the moment of birth. This respects the intentions and agreements of all parties and prioritises the child's stability and identity.

3. **Decriminalise International Commercial Surrogacy:**
   Repeal state laws that criminalise international surrogacy. Replace them with regulation, oversight, and ethical safeguards that protect the rights of the child and surrogate without punishing parents.

4. **Clear National Guidelines on Reimbursement:**
   Define permissible expenses in a national code to support surrogates without crossing into commercialisation. Surrogates should not be left out-of-pocket or in legal limbo.

5. **Establish a National Registry for Surrogates, Donors, and Children:**
   Create a secure, centralised registry to protect children's right to know their origins. This aligns with international standards and supports identity formation.

6. **Invest in Professional Training and Public Education:**
   Provide consistent training for health, legal, and social service professionals on inclusive, ethical surrogacy practices. Broader public education will reduce stigma and improve informed decision-making.

Final Reflections

Families like mine to not seek special treatment, only equal recognition and protection. The current patchwork of laws sends a message that some families are more legitimate than others. That message is harmful and outdated.

It is time to move towards a national framework that is inclusive, ethical, and child-centred. Surrogacy, when done with care and consent, is an act of love. Our laws should reflect that love, not criminalise or marginalise it.

Thank you for your consideration.

Sincerely

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