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20/06/2025

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 a vested interest in the review of surrogacy law as this may directly implicate my journey to becoming a mother.

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

I seek that my submission be published but de-identified

1. If you or someone close to you has had personal experience of surrogacy, please describe:
    - What parts of your experience were positive?
    - What parts of your experience were negative?
    - What could be improved and how?
    - I am writing to you as a single intended parent currently undergoing an altruistic surrogacy journey within Australia. Due to an extensive gynaecological history, including a medically necessary hysterectomy at the age of 34, surrogacy is my only pathway to parenthood. I have been incredibly fortunate to have my sister generously offer to be my surrogate, making this a deeply personal and altruistic journey for both of us.

However, despite the love and commitment underpinning our situation, we have faced significant barriers that I believe highlight the urgent need for policy reform. These include:

- **Inconsistent surrogacy laws between states**: I reside in Victoria while my sister lives in Queensland. The differing legal frameworks and regulatory processes between states have caused unnecessary confusion, delays, and emotional strain.
- **Financial hardship and Medicare inequity**: As a woman unable to carry a child, I have faced high out-of-pocket costs for IVF procedures, embryo transfers, and essential medications for my sister. Unlike those undergoing IVF for their own pregnancies, Medicare provides no support in surrogacy cases—even when they are altruistic and medically

necessary. For instance, my sister's required medications were not covered and had to be filled as private scripts costing thousands of dollars.

- **Delays due to bureaucratic inefficiencies**: We have experienced prolonged waiting periods at every step, from approvals by IVF providers and Prescribed Registered Practitioners, to legal clearances and sperm donor sourcing. These delays compound the stress and uncertainty, especially when each step is emotionally loaded and time-sensitive.

As it stands, the current system places an undue burden on those pursuing surrogacies, particularly those in medically justified and altruistic arrangements. I urge the government to consider:

- **Establishing a national framework for surrogacy** that streamlines the legal and ethical process across all Australian states and territories.
- **Expanding Medicare coverage** to include procedures and medications related to altruistic surrogacy, recognising it as a valid and essential form of reproductive care.
- **Improving coordination of care** by providing access to surrogacy case managers or support services to guide families through the complex process.

My hope is not just for myself, but for the many Australians who are unable to carry a child and are striving for the same opportunity to build a family with dignity, support, and fairness. I am more than willing to discuss my experience further if it could assist in the development of more equitable and compassionate policy.

2. What reform principles should guide this Inquiry?

- Equity and Access

Principle: All individuals, regardless of medical history, relationship status, gender, sexual orientation, or geographic location, should have fair and equitable access to surrogacy.

- Ensure Medicare covers essential fertility services for intended parents who cannot carry a pregnancy.
- Eliminate discriminatory barriers for single individuals and LGBTQ+ people.
- Address the disadvantages faced by regional or interstate families due to inconsistent laws.
- National Consistency

Principle: Surrogacy should be governed by a clear, harmonised national legal framework.

- Eliminate legal inconsistencies between states and territories.
- Develop nationally consistent approval processes, counselling protocols, and legal requirements.
- Ensure surrogacy agreements are equally recognised across jurisdictions.
- Medical Necessity and Inclusion

Principle: Surrogacy should be available to those with a legitimate medical need.

- Recognise that some people, including women with a history of gynaecological illness or hysterectomy, have no alternative path to biological parenthood.
- Treat surrogacy as a legitimate medical treatment pathway under public health policy.
- **Child-Centered Focus**

Principle: The best interests of the child must be paramount in all surrogacy arrangements.

- Ensure legal parentage can be established smoothly and promptly after birth.
- Provide post-birth psychological support and family services for all parties.

- Encourage open, ethical communication about the child's origins.
- **Timeliness and Efficiency**

Principle: Surrogacy processes should be streamlined to reduce unnecessary delays and emotional distress.

- Introduce timeframes for approvals by IVF clinics, ethics committees, and legal bodies.
- Reduce administrative burden by centralising documentation and approvals.
- Avoid redundant steps across agencies and professionals.

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?

- **Information About the Surrogacy Arrangement**
- That they were born via surrogacy.
- The identity and role of the surrogate (if known and appropriate).
- The context and reasons for the surrogacy (e.g., medical infertility, same-sex couple, single parent, etc.).
- **Genetic and Medical History**
- Information about the egg and/or sperm donors, including:
    - Medical and genetic history.
    - Ethnicity and ancestry.
    - Non-identifying characteristics (e.g., education, hobbies, physical traits) if the donor was anonymous.
- Access to identifying donor information once the child reaches a certain age, in line with national donor-conception laws.
- **Legal and Parentage Information**
- Who are their legal and biological parents?
- How legal parentage was established or transferred.

How Should This Be Provided / Facilitated?

- **Early, Age-Appropriate Disclosure**
- Parents should be encouraged and supported to tell their children about their surrogacy story from a young age, using age-appropriate language.
- Storybooks, videos, and professional counselling can help family's approach this positively and confidently.
- **National Surrogacy and Donor Registers**
- A **central government-run registry** (like Australia's existing donor conception registers) should store:
    - Information about the surrogate and gamete donors.
    - Medical and identifying information (where permitted).
    - Contact preferences of donors/surrogates.
- This register should allow the child to access information as their rights mature — generally at 18.

- **Legal Right to Information**
- Children born through surrogacy should have a **legally protected right** to:
    - Know the truth about their origins.
    - Access identifying and non-identifying information at the appropriate age.

5. What do you think are the main barriers that prevent people from entering surrogacy arrangements in Australia, and how could these be overcome?
- Legal and regulatory inconsistencies between states
- Lack of access to suitable surrogates
- Complex, lengthy approval and screening process
- Lack of public awareness and stigma
- Psychological and emotional complexity

6. Should there be eligibility criteria for surrogacy? If so, what should those requirements be?
- Medical or social infertility, age limits, psychological screening

7. Are there any current requirements which should be changed or removed?
- State by state legal inconsistencies
- Restrictive eligility based on marital status or sexual orientation
- Unfair Medicare exclusions for surrogacy related IVF
- Limited post birth legal parentage pathways

8. Are there any requirements for a valid surrogacy agreement you think should be added, removed, or changed?
    - Requirement that surrogacy must be altruistic – permit modest, regulated surrogate compensation

9. Should surrogacy agreements be enforceable?
- Yes – but with clear, limited and ethical boundaries

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

Pre-agreement	Legal advice, counselling, psychological screening, written agreement
Approval	Ethics or court review of arrangement before embryo transfer
During pregnancy	Medical autonomy, counselling access, agreed communication
At birth	Hospital protocol, baby placed with intended parents, parentage transfer begins
Post-birth	Counselling, legal finalisation, birth certificate, child's rights protected

11. What are the gaps in professional services for surrogacy in Australia?
- No consistent hospital or maternity guidelines
- Few trained lawyers and psychologists
- Limited IVF clinics

12. What is the best way for professional surrogacy services to operate?
- Create a national surrogacy support framework with mandatory use of accredited professionals

13. How should surrogacy advertising be regulated?
- Legalise and regulate surrogacy advertising nationwide through an accredited platform

14. What entitlements, if any, should be available to surrogates and intended parents?
- Medicare rebates for IVF treatments
- Employee parental leave for surrogates and IPs
- Centrelink PPL

15. How could the process for reimbursing surrogates for reasonable expenses be improved?
- Issuing a debit card that has money already on so the surrogate can purchase at time of need without being out of pocket until reimbursed.

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 support a compensated surrogacy model as surrogates commit significant time, emotional energy, and physical risk. I think allowing modest regulated compensation within an altruistic framework would work well.
- I am not in support of commercial surrogacy where it becomes a transactional profit motive where babies can become perceived as products

17. If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented?
- Amend state and federal legislation
- Set national compensation guidelines
- Establish oversight body
- Mandatory legal, medical and psychological screening
- Create centralised surrogacy pathways
- Transparent agreements and consent

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?

- Costs
- Paperwork and court appearances
- Inconvenience for all parties
- Uncertainty whilst waiting for the order
- Time it takes for order to be finalised
- Difficulty when baby born in another state then parentage order

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

- Introducing pre- birth parentage orders
- Nationally consistent laws and timelines
- Immediate parental responsibility at birth
- Digitise and streamline the parentage application process
- Educate hospitals and service providers

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.

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

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

- Develop a national surrogacy framework or model law
- Create a national surrogacy register and central authority
- Standardise parentage orders and birth registration processes
- Allow cross border surrogacy with equal rights

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

- Yes, surrogacy should be subject to oversight — but it must be ethically grounded, nationally consistent, and focused on protection, not punishment. The best oversight system is one that respects autonomy, ensures informed consent, and puts the child's well-being at the heart of every decision.

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

- The law should prohibit
    - commercial surrogacy that exploits or commodifies the process
    - Surrogacy without informed consent
    - Surrogacy involving coercion or trafficking
    - Unregulated overseas arrangements

    - Surrogacy that ignores the rights of a child

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

- Yes, the law is inconsistent and confusing
- Many professionals are not well informed
- Surrogacy is still misunderstood in the community

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

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?

- Hospital management of surrogacy arrangements

Thank you for considering my submission.
Yours Faithfully,

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