Submission to the Australian Law Reform Commission
Review of Surrogacy Laws in Australia

Submitted by: [redacted] – Surrogate

Introduction

My name is [redacted], and I am writing to the Commission in my personal capacity as someone who has acted as a gestational surrogate in Queensland, Australia. I wish to share my lived experience in the hope that it may inform the review and eventual reform of our surrogacy laws, which I believe are in urgent need of change.

I have always been deeply moved by the experiences of those facing infertility. Before my most recent journey, I embarked on two separate surrogacy paths, both with the genuine intention of helping intended parents achieve their dream of having a family. Unfortunately, for a range of personal and medical reasons, those journeys did not proceed to completion. Nevertheless, they solidified my conviction that surrogacy, when done with care and compassion, can be a profoundly meaningful act of support and solidarity.

It was through our mutual connections that I came to know [redacted] and learned of her long, difficult fertility journey. Her story resonated deeply with me, and after getting to know her better and building trust over time, I offered to become her surrogate. I made this offer willingly, with a full heart and an informed understanding of the process and commitment it would involve.

In December 2022, I gave birth to precious little [redacted], and I can honestly say that being part of this surrogacy journey with [redacted] was one of the most rewarding experiences of my life. It was not always easy—emotionally, logistically, or medically—but the joy of helping bring [redacted] into the world and watching [redacted] bath in that joy has been indescribable.

Through this submission, I hope to provide a voice for surrogates like myself—those who enter this journey voluntarily and altruistically, but who must navigate a legal system that is often outdated, overly complex, and not reflective of the emotional realities and genuine intent that underpin modern surrogacy relationships.

Call for a Nationalised Framework

One of my earlier surrogacy journeys—before helping [redacted]—was with a couple who lived in New South Wales, but received fertility treatment in Queensland. From the outset, we were confronted with the challenge of navigating two different state legal systems, each with its own surrogacy laws, eligibility requirements, and procedures. Even though this particular journey did not progress to the point of requiring legal intervention, the initial research alone left me overwhelmed and confused.

As a surrogate, I wanted to ensure I was acting lawfully and responsibly, but the lack of

clarity—especially across state lines—made it incredibly difficult to know what my rights and obligations were, or what support systems were available to me and the intended parents. Each state had its own interpretation of consent forms, counselling requirements, and legal processes.

Now, having completed a successful journey with [redacted], I've come to fully appreciate just how complex and inconsistent our surrogacy laws are across Australia. What concerns me most is that this isn't just a matter of confusion or paperwork—it's a matter of equity and access. The laws in some states exclude certain groups from participating in surrogacy at all, or force them to jump through more hoops than others.

For example, it is deeply troubling to me that in Western Australia, same-sex male couples remain ineligible to access surrogacy. I have personally worked with same-sex male couples who were forced to seek international surrogacy arrangements—not out of preference, but because their home state did not offer them the same legal rights as heterosexual couples. One couple I know had their baby born overseas during the COVID-19 pandemic, and they were subjected to severe restrictions that prevented them from being with their newborn for weeks. This separation was heartbreaking and entirely avoidable had they been allowed to pursue surrogacy safely and legally here in Australia.

The patchwork of laws across the country creates inconsistency, confusion, and discrimination. It also increases the risk that people will turn to less regulated or offshore alternatives, often at greater emotional, financial, and legal risk to all involved—including the child.

For these reasons, I strongly support the introduction of a national surrogacy framework. A unified approach would:

- Ensure clear and consistent criteria for all parties across Australia;
- Reduce the burden of legal uncertainty for surrogates and intended parents;
- Promote fair and equal access to surrogacy regardless of geographic location, sexual orientation, or relationship status; and
- Encourage people to stay within Australia's ethical and regulated system, ensuring greater protection for children born through surrogacy.

I firmly believe that surrogacy should be about creating families safely and compassionately—not navigating red tape or legal inequities.

Compensated Surrogacy

I have followed the growing conversation around compensated surrogacy in Australia, and I understand the arguments being made by advocates who believe that introducing some form of payment may increase access and recognition for the role surrogates play.

While I acknowledge their perspectives, I feel it is important to share my concerns and personal reflections as someone who has been through the experience.

I have had detailed and open conversations with [redacted]—the intended parent I supported—about this very issue. For me, surrogacy was never about money. It was never "work" in the conventional sense; rather, it was a gift I was deeply honoured to give. [redacted] and I have often described it as something akin to live organ donation—a selfless act of compassion and care to help another person create life. Just as we do not expect people to be paid for donating a kidney or part of their liver, I never felt I should be paid for helping to bring her child into the world.

That said, I also recognise the challenges others face when considering surrogacy. The current altruistic model, while ethically grounded, can place significant emotional, physical, and financial strain on surrogates—particularly those who may not have access to adequate support, leave entitlements, or financial flexibility. For some, compensation could offer recognition of the toll the process can take, and could open the door for more women to consider becoming surrogates when they might otherwise be unable to afford to do so.

However, I hold serious concerns that a move toward blanket compensated surrogacy could commercialise and commodify what is a deeply personal and emotional process. It may also expose vulnerable women to exploitation, particularly those in precarious financial situations who may feel compelled to become surrogates not out of genuine desire, but due to economic pressure. Such a shift risks creating power imbalances between surrogates and intended parents, which could undermine the foundation of trust and mutual respect that is essential to a successful and ethical surrogacy arrangement.

For that reason, I believe that any future model of compensated surrogacy must be optional and flexible. It should allow for surrogates like me—who genuinely do not want or need to be paid—to continue participating in surrogacy on an altruistic basis. At the same time, it could provide an opt-in pathway for surrogates who are comfortable receiving compensation and who understand the implications.

Such a model should be supported by:

- Clear national guidelines to prevent coercion or undue influence;
- Strict eligibility and oversight to protect all parties involved, especially the surrogate;
- Legal and psychological support embedded throughout the process; and
- A commitment to preserving the non-transactional spirit of surrogacy, even where compensation is involved.

In my experience, the heart of surrogacy is the relationship—the bond between surrogate and intended parent, grounded in trust, care, and shared purpose. Any legal

framework must protect and prioritise this, regardless of whether compensation is involved.

Parentage Orders

My experience with the parentage order process was actually a very positive one. I found the court hearing to be a meaningful and affirming moment—a kind of ceremonial conclusion to my role as a surrogate. It was a day that gave me a sense of closure and pride, knowing I had helped bring a child into the world and was now formally handing over that legal recognition to the parents I had supported. For me, it wasn't intimidating—it was symbolic.

That said, I also recognise that the timing of parentage orders in the current system is far from practical. In our case, it would have made everything much simpler—emotionally, legally, and logistically—if the parentage order could have been finalised before the birth. From a legal standpoint, having the intended parents named on the birth certificate from the outset would have avoided delays with passport applications, Medicare registration, and other official documentation, all of which had to be completed under my name at first. It added stress to a period that should be focused on bonding, recovery, and transition.

From a human perspective, the time immediately following birth is incredibly intense. The intended parents should be able to focus fully on their newborn—on nurturing and loving that child—without having to juggle complex legal paperwork and hearings. And for surrogates, those early weeks are a critical period of physical and emotional healing. The legal uncertainty that lingers during that time, until the parentage order is granted, can weigh heavily, even in situations where the relationship between surrogate and intended parents is strong and trusting.

That's why I strongly support the introduction of pre-birth parentage orders. To me, it makes perfect sense that this should be settled before the baby arrives, so that:

- The intended parents are recognised as legal parents from birth;
- There are no delays or confusion with official documentation;
- Surrogates can have clear emotional and legal boundaries post-birth; and
- Everyone involved can focus on what matters most—the wellbeing of the baby and the family unit.

Advertising in Surrogacy

I cannot express strongly enough my belief that the current prohibition on advertising in surrogacy is an outdated and arbitrary restriction that has no place in a modern, ethical, and compassionate system.

When I first decided that surrogacy was something I wanted to do, I was genuinely worried about accidentally breaking the law. I found myself second-guessing every conversation, every online interaction, and every word I used. I was painfully careful—not because I was doing anything wrong, but because the law made it feel as though I might be. It was confusing, restrictive, and deeply frustrating. All I wanted was to find someone who needed help to start a family. But I couldn't even make a simple post on social media or join the conversation in public forums without fear of legal repercussions.

In an age where connection is often built through digital platforms and online communities, this kind of blanket ban on advertising feels entirely disconnected from reality. More than that, it undermines the principle of informed, voluntary choice. I should have been free to openly share that I was interested in becoming a surrogate—just as intended parents should be free to openly seek someone willing to help them.

The fear around advertising seems rooted in the idea that it might lead to exploitation or coercion, but with proper oversight and regulation, I believe those risks can be managed far more effectively than through silence and suppression. Ethical frameworks and screening processes should be the safeguards—not a prohibition on connection.

What the current restriction actually does is drive people underground, or force them into convoluted, indirect pathways that waste time and create additional barriers. It also exacerbates the inequity in surrogacy access, where only those with the right networks, resources, or legal advice can navigate the system confidently. That's not the kind of surrogacy model I want to see in Australia.

Surrogacy should be about trust, consent, and mutual respect—not secrecy and fear. I firmly believe that regulated advertising, where people are transparent about their intentions and protected by clear legal and ethical frameworks, is not only safe but also empowering. It allows surrogates and intended parents to find each other authentically and with confidence.

The law should support those who are willing to help—not treat them as if they are doing something wrong.

Personal Reflection on My Journey with [redacted]

My journey with [redacted] is an experience I will never forget. I truly believe we may have had the "dream team"—and honestly, it worked. From the very beginning, I could see the sheer pain on [redacted]'s face as she navigated the grief of not being able to carry her own

baby. But through clear, honest conversations, we were able to balance her fears with my need to retain full bodily autonomy. It was never an issue because we communicated openly and respectfully at every step.

I never expected [redacted] to visit every day during the pregnancy, knowing the emotional toll that might bring her, but she was always there when it mattered. After the birth, she nurtured me deeply—her door always open for a cuddle, a cup of tea, or just to sit quietly together. She trusted me, and I trusted her. There was never a moment of doubt that she was [redacted]'s mother in every sense. I had no desire to interfere in her parenting—she was a great mum.

With the heaviest of hearts, I must share that precious [redacted] passed away unexpectedly just five days before his first birthday. Watching my treasured friend go through that heartbreak again was indescribably painful. I wish there was more I could have done. And yet, even in those darkest days, [redacted] made sure we were involved and acknowledged—in [redacted]'s funeral, in his memory, and in the grief that followed.

Today, we continue to walk alongside each other. We now work together at [redacted]—more than just a law firm, it is a place of support, healing, and legacy. A tribute to [redacted]. I am so proud of us for building something meaningful from such joy, and from such loss.

Conclusion

Being a surrogate was one of the most profound and rewarding experiences of my life. I undertook this journey with full awareness and a deep commitment to helping someone else experience the joy of parenthood. I never imagined how many legal, emotional, and systemic barriers would stand in the way—not just for me, but for the families who so desperately want a child.

We have a unique opportunity in Australia to create a surrogacy system that is ethical, clear, inclusive, and supportive of all parties involved. This means adopting a national framework, ensuring equality of access, allowing for optional compensation, embracing pre-birth parentage orders, and eliminating outdated restrictions like the ban on advertising.

I urge the Commission to centre the lived experiences of people like me—surrogates who are motivated by generosity and grounded in trust—and to build a legal system that reflects the humanity, complexity, and hope at the heart of surrogacy.

Thank you for the opportunity to share my story and my perspective.

Regards

[redacted]