

IT'S TIME FOR NEW YORK TO LEGALIZE COMPENSATED GESTATIONAL SURROGACY – PASS THE CHILD-PARENT SECURITY ACT

New York should streamline its inconsistent and uncertain approach to donor conception and establish a framework for compensated gestational surrogacy, joining nearly every other state in the U.S. that permits that practice, by enacting A.1071-C (Paulin) / S.2071-B (Hoylman).

- ✓ Streamline the legal status of children conceived through sperm, egg, and embryo donation and their intended parents by permitting a donor to waive his/her parental rights in writing.
- ✓ Permit a family, whether two parents or one, married or unmarried, different-sex or same-sex, to obtain a judgment of parentage clarifying the status of the child, the intended parent(s), and the donor.
 - *The ability of intended parents who have no genetic connection to their child to obtain a parentage judgment is important to single women, families utilizing donated embryos, and individuals who are not able to produce eggs or sperm for a variety of medical reasons.*
 - *This will remove the need for costly and onerous second parent adoptions (although families who nonetheless wanted to complete a second-parent adoption would retain the ability to do so).*
- ✓ Replace New York's statutory ban on compensated surrogacy with a comprehensive scheme for recognizing gestational surrogacy agreements (i.e., where the surrogate has not provided the egg used to conceive), while protecting the interests of the person acting as surrogate and the intended parents.
 - *A comprehensive scheme for recognizing surrogacy agreements would require at a minimum: (i) independent legal counsel for the person acting as surrogate, paid for by the intended parents; (ii) complete and comprehensive medical care and coverage for the person acting as surrogate, paid for by the intended parents; (iii) surrogate control over pregnancy-related health, welfare and reproductive health decisions; (iv) placement of any compensation in an independent escrow account for the benefit of the person acting as surrogate; (v) a commitment that the intended parents will accept custody and financial responsibility of the child immediately upon birth; (vi) a requirement that the surrogate's attorney and the intended parents' attorney certify or affirm (a) that the person acting as surrogate and the intended parents meet the eligibility requirements under the statute, and (b) that the provisions of the surrogacy agreement meet all statutory requirements; and (vii) adopting a comprehensive Surrogates' Bill of Rights.*

What is Current New York Law?

- Inconsistent & unpredictable when it comes to family building with the assistance of sperm, egg, & embryo donors.
- Children, intended parents & persons acting as surrogates exposed to significant risk.
- The donor conception statute applies only to (1) **married couples** who have (2) **conceived through sperm donation** & (3) **meet specific conditions**.

Families falling outside of that construct do not receive the benefit of the statute & face a legal ambiguity regarding recognized parentage.

The developments in reproductive medicine and the experience of other states with surrogacy lay a solid foundation for New York to revisit the legal treatment of the practice. We urge the Governor and Legislature to enact the Child-Parent Security Act.