

**INQUIRY INTO LEGISLATION ON ALTRUISTIC
SURROGACY IN NSW**

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Submission for Parliamentary Inquiry into Surrogacy

My wife and I had many years of unsuccessful attempts at falling pregnant, leading to assisted ovulation and eventually to full IVF. After 21 assisted cycles which resulted in only 3 pregnancies, none of which progressed beyond 6 weeks, our options were limited.

A series of tests during the more than 4 years we were trying, left our IVF specialist, Dr James of Sydney IVF with the opinion that Denise's endometrium was insufficiently thick to sustain a pregnancy. Dr James and others tried all sorts of methods to correct the perceived problem, including sessions in a hypobaric chamber, however none worked.

About this time a close friend offered to be a surrogate. Her offer coincided with our Dr James suggesting surrogacy as our only viable alternative. Initial applications to the NSW ethics committee were rejected on the grounds that Denise had fallen pregnant therefore "could conceive" and they would not approve a surrogacy arrangement. We then made application to Canberra IVF, whose ethics committee approved our application, though we only made the age qualification for Denise by a matter of weeks.

The process was arduous and expensive. We had to spend almost \$10,000 in legal, psychiatrist and application costs before we would even find out if we would be accepted for the program. Eventually we were and after approximately 2 years and more than \$20,000 in cost since our friend's offer, we were at the birth of our daughter Emily Jane in Shoalhaven hospital on 8 June 2007.

The above few paragraphs seems insignificant compared to the size of the problems we faced in having Emily. The costs and legal quagmire we endured was massive. Following the birth Emily had to be referred to as "baby Martin" (Martin is the surname of the surrogate), and Denise and I had to apply to the Family Law Court to (a) make a parenting order in favour of myself and Denise; and (b) make an order allowing Emily's name to be changed to our surname (Norman). We are still yet to go through the process of full adoption, something with our legal advice indicates will not be possible without a report from DoCS, a report which we have been told will not be made until Emily is at least 6 years old.

Emily is a beautiful, happy and healthy child and we are eternally grateful to our surrogate, her family, to all those who helped make Emily possible, and those who supported us. However Emily may never have happened, if not for more flexible laws in the ACT. Furthermore, there are still some major holes in the completion of the process which need to be fixed. These are:

1. **Simplification of the legal process**

To alleviate or minimise the need for complex and costly legal documentation to be prepared before, during and after the process. In total we would have spent almost \$15,000 on legal costs associated with Emily's birth, with still more to come in the adoption process.

2. **Retrospective changes to the recording of the birth**

Emily's birth certificate will, unless things are changed, forever have her surrogate recorded as being the mother, and the surrogate's partner recorded as the father. This is despite no genetic connection of Emily to these two people. The role of the surrogate should not be undersold, and it is important that they be recognised, however for all sorts of reasons related to genealogy, medical history and so on, it is imperative that the genetic parents names be recorded on the birth certificate. The ideal scenario is the genetic parents AND the surrogate's name be recorded.

3. **Changes to the law to recognise the surrogacy arrangement**

Everyone involved knew from day one that the baby born as a result of the surrogacy would be raised by its genetic parents, yet we had to apply for an order from the Family Law Court for parenting, followed by a (6 year) wait to adopt the child. We spent an inordinate amount of time going through legal documents, interviews, psychological assessment and counselling, in order for the surrogacy to occur. Why then do we need a process whereby someone else, DoCS, the family Law Court or otherwise, can decide that we are not suitable parents and potentially the child "returned" to a couple with no genetic connection and no desire to raise the child? People in our situation already feel inadequate because of our inability to conceive "normally"! All the processing stuff should be completed *before* the baby is born, so when it is born, the parents can get on with the job of raising the child. Not having to spend time in courts, government offices and solicitors rooms trying to sort out the legal status of the child. Thankfully it didn't occur, but *legally* if something had happened to Emily which required medical attention in the period between the birth and the Family Law Court order, we would have had to obtain written approval from the surrogate to have Emily treated!

I have tried to keep this submission as brief as possible, knowing there will be many submissions many of which will be against changes, particularly on religious or "moral" grounds. I am more than happy to expand on any or all of the points I have raised, and even cover many of the areas I have left out in order to keep the submission as brief as necessary. However I can appear in person, or I can make further written submissions on what we have experienced. I know there will be many submissions, but how many are coming from people who have actually lived it?

We are more than happy to bring Emily Jane Norman to meet you. We can even bring the surrogate if you like, the woman who unselfishly, unbelievably, gave more than 2 years of her life to see a childless couple have what they otherwise could not, with nothing more than our gratitude to show for it. If Emily were to be there, I would like to see if anyone can look any of us in the eye, and tell us that what we have done should not be made more accessible to more people, or worse that it not be allowed at all in the future.

I hope you will get to meet Emily, or know of her, and know that surrogacy is something that is special, and should be made accessible to as many people as are prepared to follow the process. To those who oppose surrogacy, I say It's always easy to impose your values on others when it's not you that is in the position.

David, Denise and Emily Norman

