



Colorado Fertility Advocates

Support for HB21-1022 Gestational and Genetic Surrogacy Agreements

Colorado Fertility Advocate is a non-profit organization supporting the 1 in 8 Colorado families struggling with infertility as well as the professionals assisting them. Colorado Fertility Advocates' board of directors consists of doctors, nurses, mental health professionals, business owners, lawyers, and veteran advocates. Our goal is to see that all Coloradans struggling with infertility receive the education and support they need.

Surrogacy arrangements are common in Colorado. However, without standards and protections in state law, those going through infertility treatments are at their most vulnerable and susceptible to questionable practices. This leaves hopeful parents, those that help them, and their children without protection. State legislatures throughout the country have increasingly recognized the need for appropriate safeguards.

HB21-2022 codifies best practices for surrogacy arrangements in our state, establishing consistent standards and procedural safeguards to promote:

- The best interests of the children born through surrogacy arrangements.
- Protections for the health and safety of those acting as surrogates.
- Secure rights and obligations between the intended parents and their children.

We are proud to see Colorado's legislature considering these important protections for Coloradans and urge you to vote in favor of HB21-2022.

Respectfully yours,

Colorado Fertility Advocates

Dr. Leslie Appiah

Angela Bevill

Judith Hoechst

Dr. Althea O'Shaughnessy

Ellen Trachman

Jennifer White

Dr. Alison Wilson

Crystal Wilson

Dr. Christina Yannetsos



TO: The Colorado Legislature

FROM: Colorado Women's Bar Association
Ruth Aponte (303-907-1980)
Ellen Trachman (303-243-5014)

RE: Support For HB21-1022 Concerning The Protection Of Parties Through The Enforcement Of Proper Surrogacy Agreements

With over 1500 members, the Colorado Women's Bar Association (CWBA) is the largest diversity bar association in Colorado, and one of the largest women's bar associations in the country. The CWBA's mission is to promote women in the legal profession and the interests of women generally. In line with that mission, the CWBA is in strong support of the HB21-1022, Concerning the Protection of Parties Through the Enforcement of Proper Surrogacy Agreements. It is our position that the enactment of HB21-1022 will advance the interests of women, children, and families in Colorado.

The bill takes a balanced approach by requiring clear and specific safeguards for the parties. These protections include mental health consultations, independent legal representation, and autonomy over medical decisions. The bill ensures that women who volunteer to act in the most intimate and personal way for others, by carrying a child to birth, go into the process fully understanding the emotional and legal ramifications, but without creating unnecessarily burdensome regulations.

Moreover, the bill enshrines in law a predictable and concrete process for determining the legal position of the parties related to the child. The intended parents receive recognition of their rights and obligations to their child, the surrogate is appropriately deemed not financially responsible for the child, and the child does not live in legal limbo as to their true parents and family. The bill eliminates the possibility that Colorado families and children will be treated in unpredictable ways by courts and healthcare providers.

The Colorado Women's Bar Association urge you to vote in support of HB21-1022.

Sincerely,

Alison Connaughty
Meagan Moodie

CWBA Public Policy Committee Co-Chairs

Ellen Trachman

CWBA Public Policy Committee, Women's
Health Subcommittee Lead



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adoptionART.org

February 23, 2021

Rep. Meg Froelich

200 E. Colfax Avenue

Denver, Colorado 80203

Colorado General Assembly

Sent Via Email: meg.froelich.house@state.co.us

Re: Support for HB21-2022

Dear Rep. Froelich:

On behalf of the Academy of Adoption and Assisted Reproduction Attorneys ("AAAA") we are writing to state our strong support for HB21-2022 ("The Bill").

AAAA is a credentialed, nonprofit organization of attorneys, judges and law professors throughout the United States, Canada and abroad, all of whom are distinguished in the legal fields of adoption and assisted reproductive technology. We support and advocate for the rights of families and to insure appropriate consideration of all parties' interests, including children, in assisted reproductive technology matters. Our Fellows are committed to the ethical practice of adoption and assisted reproductive technology law. Surrogacy is a sub-set of assisted reproduction and an area in which many states have already implemented enabling statutes.

The Bill, if passed into law, will establish secure parental rights for families formed through assisted reproduction, thereby protecting the best interests of the children and their parents. It will also codify safeguards for the gestational carriers and their partners, which is a critically important step in the ethical practice of surrogacy arrangements. Additionally, the Bill provides for just and equitable treatment of persons suffering from infertility by providing for consistent legal recognition of parental rights and responsibilities for families formed through assisted reproduction. The Bill is clear, well-considered and if passed, will ensure the implementation of these best practices in Colorado.



Page 2

We view this as a significant step in forwarding the interests of Colorado families and children.

We urge you to vote for passage of this important Bill so that the proposed safeguards and guarantees can effectively protect Colorado families built through assisted reproduction. Thank you.

Sincerely,

A handwritten signature in black ink that reads 'Genie Miller Gillespie'.

Genie Miller Gillespie, JD
Attorney at Law
President, Academy of Adoption and Assisted Reproduction Attorneys

A handwritten signature in black ink that reads 'Margaret E. Swain'.

Margaret E. Swain, RN, JD
Attorney at Law
Director of ART, Academy of Adoption and Assisted Reproduction Attorneys
Chair, ART Legislative Committee

Supporting HB21-1022, Concerning Surrogacy Agreements

Background:

- **Infertility is a common medical diagnosis** that impacts people physically, emotionally, and financially.
- **One in eight people** have trouble conceiving or carrying a pregnancy to term. Some will seek the assistance of a gestational or genetic surrogate to carry their child to build their families.
- In **gestational surrogacy**, the intended parents' embryo formed from their eggs and sperm or donor eggs and/or donor sperm, or even from donated embryos, is transferred to a surrogate who will carry their child. A gestational surrogate has no genetic connection to the child she carries for the intended parents. In **genetic surrogacy**, the surrogate is also an egg donor, thus she has a genetic connection to the child she carries. In either case, the surrogate has no desire to parent the child she carries, nor any desire to seek parental rights. She does not intend to raise the child she carries. She has a deep desire to assist the intended parents in building their family.
- The American College of Obstetricians and Gynecologists (ACOG), and the American Society for Reproductive Medicine (ASRM) both support gestational surrogacy as a **safe family-building option**. 85% of the in vitro fertilization clinics reporting to the Centers for Disease Control and Prevention offer gestational surrogacy as a treatment.

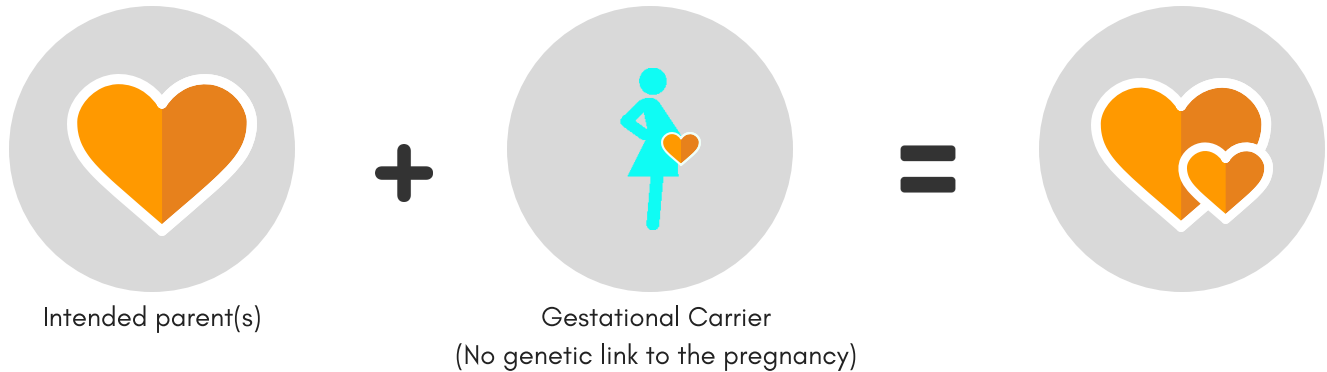
Problem: Colorado law is unclear regarding the rights of parents, surrogates, and the children born through the surrogacy process. This makes Colorado an outlier. ***In the past 30 years, more than 25 states have passed new laws to promote and support surrogacy.***

Solution is HB21-1022: We need statutory language in Colorado to protect all of the ways that people are creating their families. The lack of law in Colorado is lagging behind the advanced fertility medical care offered in our state. Colorado is a well-known destination for fertility care including surrogacy. People from across the United States and citizens of many countries have long traveled to Colorado to seek the expertise and advanced reproductive technology of fertility clinics offering the highest standards of care and the highest success rates following IVF and surrogacy. This statute protects the parents, the surrogates and the best interests of the resulting children.

WHAT IS GESTATIONAL CARRIER SURROGACY

GESTATIONAL CARRIER SURROGACY ARRANGEMENT

The woman carrying the pregnancy is not genetically linked to the offspring.
Today, the vast majority of surrogacy arrangements are gestational carrier arrangements.



In genetic (traditional) surrogacy, the woman carrying the pregnancy is genetically linked to the offspring – it was her own egg that created the pregnancy.

FAMILY FORMATION THROUGH SURROGACY

There are a number of reasons why an Intended Parent may turn to surrogacy, including:

- Medical conditions that make it dangerous or impossible to carry a pregnancy (heart disease, cancer, lupus, type 1 diabetes)
- No uterus/uterine issues (born with MRKH syndrome, ruptured uterus from previous delivery, hysterectomy)
- Reproductive health disorders (recurrent miscarriages, complications from previous pregnancies or deliveries)
- Intended Parent(s) is without a female partner.

BEST PRACTICES TO SAFEGUARD ALL PARTIES



Mental Health Professional

- Evaluates gestational carrier & partner for psychopathology & ability to manage surrogacy
- Explores surrogate's motivation to ensure compensation is not primary motivation
- Educates about risks & roles
- Can disqualify surrogate



Attorney

- Drafts/reviews/negotiates contract(s)
- Advises on legal rights, responsibilities & risks; secures legal parentage
- Ensures clients understand & voluntarily agree to contract terms
- Applies pertinent state laws
- Each party has a separate lawyer representing that party's interests



Reproductive Endocrinologist

- Conducts medical evaluation, review of OB records
- Follows ASRM guidelines (21+, has one child, financially stable, etc.)
- Engages in collaborative informed consent process
- Educates about risks of surrogacy process & pregnancy
- Ensures mental health screening is completed
- Can disqualify surrogate



Agency

- Reviews screening information
- Provides case management
- Conducts background check
- Obtains medical records for doctor review
- Requests professional health insurance review
- Intermediary between gestational carrier and intended parents
- Can disqualify surrogate