THE CHILD PARENT SECURITY ACT (S2071/A1071)

Protecting Modern Families in New York

Over the past three decades, medical technology has evolved in ways that allow new options for people who were previously unable to have children. Unfortunately, New York’s outdated laws lag far behind most other states in easing the burden for families who rely on assisted reproductive technology to become parents.

To raise awareness of the issue and mobilize supporters to take action, Family Equality Council has formed the Protecting Modern Families Coalition, a group of leading LGBTQ, religious and infertility advocacy organizations dedicated to passing the Child Parent Security Act.

The Child Parent Security Act will modernize New York law to support and protect families that utilize assisted reproductive technology, such as in vitro fertilization or gestational surrogacy.

Existing New York law is painfully out of date and hostile to modern families. Unlike states with more supportive laws, current New York law governing assisted reproductive technology relies primarily on biology rather than intention to determine parental rights. Under current law:

- Non-biological parents are subjected to an intrusive, expensive and time-consuming process to establish legal parenthood
- New York is one of only two states that bans and criminalizes the practice of surrogacy, curtailing the only option available for many families to have a biological child while eliminating the option of serving as a surrogate for women who would like to
- Sperm and egg donors can be granted rights and responsibilities they don’t want, while intended parents and their children are forced into legal limbo

The Child Parent Security Act, sponsored by Senator Brad Hoylman and Assemblywoman Amy Paulin (S2071/A1071), would modernize New York law by adopting best practice recommendations of the American Bar Association and the NY Health Department’s Task Force on Life and Law. This legislation will:

- Ensure that intended parents who enlist the help of a third-party to conceive their child have a secure legal relationship with their child from the moment of birth
- Legalize gestational surrogacy (where the surrogate is not genetically connected to the child because she did not contribute her egg), provided that the arrangement follows “best practices” in the field that protect the interests of the surrogate, intended parents, and child
- Eliminate demeaning and expensive requirements for securing parenthood for lesbian couples and others
- End uncertainty for securing parenthood for single women who rely on a sperm donor to build a family

Extensive Protection for Surrogates in the Child-Parent Security Act

The CPSA would codify into New York law “best practice” protections specifically crafted to protect gestational surrogates. The proposed law:

- Requires that the surrogate be at least 21 years old
- Gives the surrogate the sole right to make decisions regarding her own health or that of the fetus or embryo she is carrying
- Gives the surrogate the sole right to terminate the pregnancy or reduce the number of fetuses
• Gives the surrogate the right to walk away from an agreement prior to pregnancy without penalty
• Requires that the surrogate have a medical evaluation prior to entering the agreement whose cost can be (and usually is) defrayed by the intended parents
• Requires that the surrogate obtain health insurance policy that covers major medical treatments and hospitalization whose cost can be (and usually is) defrayed by the intended parents
• Requires that the surrogate and intended parents sign a detailed contract spelling out all aspects of the arrangement between the two parties, including compensation. The surrogate must receive independent legal counsel of her choosing whose cost can be (and usually is) defrayed by the intended parents
• Requires that intended parents place the full amount of compensation in an independent escrow account prior to the surrogate beginning medical procedures

States with Proactive & Progressive Surrogacy Laws
While only New York and Michigan explicitly ban all forms of compensated gestational surrogacy, most states do not have the kinds of protections for surrogates and intended parents alike included in the Child Parent Security Act. That’s largely the case because most states haven’t passed laws regulating gestational surrogacy; intended parents and surrogates rely on case law or, most frequently, the fact that the law is silent on the issue.

Should New York approve the Child Parent Security Act, it would join ten states and the District of Columbia (indicated on the map below) with “best practice” laws legalizing and regulating compensated gestational surrogacy for intended parents whether they are a married straight couple, a married gay couple, unmarried, or single and whether they are biologically related to the child or not.

States with “Best Practice “ Laws Protecting Surrogates and Intended Parents
Similar to the Child-Parent Security Act

Widespread Support
The Child-Parent Security Act is supported by the following organizations:

Academy for Adoption and Assisted Reproduction
Lambda Legal
Attorneys
The Lesbian, Gay, Bisexual and Transgender
American Society for Reproductive Medicine
Community Center of New York City
Auburn Theological Seminary
Men Having Babies
Equality New York
RESOLVE: The National Infertility Association
Family Equality Council
Union Theological Seminary
Human Rights Campaign