

Domestic Surrogacy in Israel- Protecting the Rights of the Surrogate Mother and of the Child

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Israel Surrogacy Law 1996

The Israel Surrogacy law imposes restrictions and provisions goaled to protect the rights of all parties involved:

Restrictions and conditions: who can take part in a surrogacy arrangement

Must be a genetic link between at least one of the intended parents and the child

Emphasis on the connection and relationship between intended parents and surrogate mother, on consensual agreement, compatibility and suitability for the process

Pre surrogacy assessment and authorization of surrogacy agreements by a multi disciplinary committee appointed by Minister of Health

Regulation and supervision at all stages of the process, including involvement of social workers appointed by law

Court supervision and parental order after birth to intended parents

Stage 1- Pre -surrogacy assessment process

Surrogate Mother chosen by the Intended Parents

Statutory Approval Committee-mandated by law to approve the surrogacy agreement according to the parameters of the law (which include medical, social, psychological and economic conditions) **prior** to beginning medical procedures; members of committee: physicians, clinical psychologist, social worker, attorney, religious official; examination of conditions and provisions of contract to ensure that rights of all parties are protected and that agreement includes no conditions that harm or disadvantage the rights of the child or any of the parties;

Each one of the parties submits their own medical expert opinion,their own psychological evaluation

Separate legal representation for Surrogate mother

Hearing before the committee, direct evaluations and impressions

Practice: Examples of a case in which the agreement was not authorized due to questions regarding the Surrogate Mother informed consent.

Stage 2- During Pregnancy and pre- birth

The intended parents and the surrogate mother are required by law to notify the chief social worker in the Ministry of Social Affairs, at the end of the fifth month of pregnancy, of the date and place of the expected birth.

Practice after receiving notice of pregnancy :

Social worker by law meets with surrogate mother and intended parents for the purpose of :

Evaluation of their needs and their relationship

Providing assistance in planning the birth and building a birth program (discuss the involvement of the intended parents in the birth, the separation of the surrogate from the baby, relationship and connection after the birth)

Stage 2- During Pregnancy and pre- birth

When necessary, the social worker follows up and assists in managing issues and disagreements that arise between the surrogate mother and the intended parents and recommends professional treatment

The social worker has authority by law to collect and demand relevant information regarding the surrogate mother and the intended parents.

Practice: Emphasis on the importance of the role of the case worker during pregnancy (case example)

Stage 3- After birth

Notice of birth

The intended parents and/or the surrogate mother are required by law to notify the social worker immediately and no later than 24 hours after the birth

The social worker plays an important role in the hospital setting, and she is the only person authorized and her presence is required for receiving the consent of the surrogate mother for the transfer of the baby from the surrogate to the intended parents

At this point the social worker by law is appointed as the temporary guardian of the child, in effect until a parental order is given by the family court

The intended parents are required to file a parental order request within 7 days of the birth; if such a request is not filed by them, the state will file the request.

Practice: Emphasis on the rights of the child to know his birth story (case example)

Stage 4- Parental order

Given by the family court, after receiving all the relevant documentation from the attorney general representative in the ministry, including the recommendation of the social worker, indication that the surrogate mother has given her blessing, and after being convinced that it is in the best interest of the child.

The parental order gives the intended parents full legal parental status in relation to the child, they become the sole guardians and parents of the child and he or she shall be their child for all intents and purposes. Only the parental order severs the legal ties of the birth mother to the child and cancels the temporary guardianship of the social worker.

State Central Registry and Rights of child at age 18

Registrar of parental orders: By law, parental orders are registered in a state central registry run by the Justice Ministry.

The registry includes the details of the parental order (date, family court, case number) and the details and identity of the surrogate mother

As in the case of adoption in Israel, the child has the right to access these details of his roots as listed in the registry, at the age of 18, subject to the discretion of the social worker.

Practice - To this date, no child born through surrogacy has requested information from the registry regarding his surrogate mother

Since the social workers for the surrogacy law are also social workers for the adoption law, they will be able to use their vast experience in opening the adoption files and providing information to adoptees.