

1994
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Substitute Parent Agreements Bill 1994

A BILL

FOR

An Act to restrict the making of substitute parent agreements (sometimes called “surrogacy agreements”) and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Substitute Parent Agreements Act 1994*.

Commencement

- 10 2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.
 (3) If the remaining provisions have not commenced before the end of the period of 6 months commencing on the day on which this Act is notified

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in the *Gazette*, those provisions, by force of this subsection, commence on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

5 “commercial substitute parent agreement” means a substitute parent agreement under which a person agrees to make or give to another person a payment or reward, other than for or on account for expenses connected with—

- 10 (a) a pregnancy (including any attempt to become pregnant) that is the subject of the agreement; or
- (b) the birth or care of a child born as a result of that pregnancy;

“substitute parent agreement” means a contract, agreement, arrangement or understanding under which—

- 15 (a) a person agrees to become, or to attempt to become, pregnant and that a child born as a result of the pregnancy is to be taken to be (whether by adoption, agreement or otherwise) the child of another person; or
- 20 (b) a person who is pregnant agrees that a child born as a result of the pregnancy is to be taken to be (whether by adoption, agreement or otherwise) the child of another person.

Application of offence provisions

25 4. A person who does an act prohibited by this Act is guilty of an offence under this Act if—

- (a) the act occurs in the Territory, irrespective of the whereabouts of the person at the time the act is done; or
- (b) at the time the act is done, the person is ordinarily resident in the Territory, irrespective of where the act occurs.

30 Commercial substitute parent agreements prohibited

5. A person shall not enter into a commercial substitute parent agreement.

Penalty: \$10,000 or imprisonment for 12 months, or both.

Procuration of substitute parent agreements

35 6. A person shall not procure another person to enter into a substitute parent agreement with a third person unless the first-mentioned person intends to be a party to the agreement.

Penalty: \$10,000 or imprisonment for 12 months, or both.

Advertising in relation to substitute parent agreements

7. A person shall not publish an advertisement, notice or document—

- 5 (a) intended or likely to induce a person to enter into a substitute parent agreement;
- (b) seeking or purporting to seek a person who is willing to enter into a substitute parent agreement; or
- (c) stating or implying that a person is willing to enter into a substitute parent agreement.

10 Penalty:

- (a) where the offence relates to a commercial substitute parent agreement—\$5,000 or imprisonment for 6 months, or both;
- (b) in any other case—\$5,000.

Facilitating pregnancy

15 8. A person shall not knowingly provide any professional or technical services to another person to facilitate a person who is, or intends to be, a party to a substitute parent agreement becoming pregnant for the purpose of the agreement.

Penalty: \$10,000 or imprisonment for 12 months, or both.

20 **Substitute parent agreements void**

9. A substitute parent agreement is void.

Welfare and interests of child paramount

25 10. Despite section 9, in any action or proceeding in connection with a substitute parent agreement, the welfare and interests of the child born as a result of a pregnancy that was the subject of the agreement shall be regarded as the paramount consideration.