

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

**SUBSTITUTE PARENT AGREEMENTS
(CONSEQUENTIAL AMENDMENTS) BILL 1994**

EXPLANATORY MEMORANDUM

**Circulated by authority of
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AUSTRALIAN CAPITAL TERRITORY**SUBSTITUTE PARENT AGREEMENTS (CONSEQUENTIAL AMENDMENTS)
BILL 1994****OUTLINE**

This Bill amends the *Children's Services Act 1986* and the *Public Health (Private Hospitals) Regulations* consequent upon the enactment of the *Substitute Parent Agreements Bill 1994*.

This Bill provides for

- lodgement of information with the Registrar-General in respect of a child born as a result of a substitute parent agreement ; and
- withdrawal of licenses to practise reproductive medicine from medical organisations which participate in facilitating substitute parent agreements.

The Bill is introduced together with the *Substitute Parent Agreements Bill 1994*. That Bill makes all substitute parent agreements void and unenforceable. It also prohibits commercial substitute parent agreements, advertising or procuring in relation to substitute parent agreements, and technical or professional services in relation to facilitating pregnancy for a substitute parent agreement.

Financial Considerations: Any additional demand on the courts involved will be absorbed within the current budget allocation.

PART 1 - PRELIMINARY

Clauses 1 and 2 are formal requirements. They refer to the short title of the Bill, and provide that clauses 1 and 2 commence on the day on which the Bill is notified in the *Gazette*, the other provisions commencing on the day on which the *Substitute Parent Agreements Act 1994* comes into effect.

Amendment to *Children's Services Act 1986* - clause 3

Section 159 of the *Children's Services Act 1986* is amended by adding section 159A. This section provides that where the Director of Family Services becomes aware that a child has been born as the result of a substitute parent agreement, the Director is to make reasonable enquiries to determine the correct details relating to those matters which are entered into the Register of Births (which include the date and place of the child's birth, the identity and other details of the mother and father of the child, the identity and other details of any siblings). These details are to be furnished to the Registrar-General. The *Registration of Births, Deaths and Marriages Act 1963* provides that when the Registrar-General is satisfied that the Register of Births contains an error or mis-statement in, or omission from, any particulars entered in it, he or she may correct the register as the case may be (section 52). It is thus intended that the

birth certificate of a child reflect the true parentage of that child according to law.

The term "substitute parent agreement" is then defined to involve either:

- (a) an agreement to become, or to attempt to become, pregnant, with the intention that the child is to be taken as the child of another, whether by adoption or otherwise; or
- (b) an agreement by a person who is already pregnant that the child will be taken as the child of another, whether by adoption or otherwise.

Amendment to Public Health (Private Hospitals) Regulations - clause 4

Regulation 11 of these Regulations is repealed, and substituted with a new regulation. This regulation provides that the Minister may suspend or (after written notice) cancel the registration of a private hospital where the proprietor or an employee provides advice or services which are designed to facilitate someone else

- . entering into a substitute parent agreement;
- . procuring someone to enter a substitute parent agreement; or
- . becoming pregnant for the purposes of a substitute parent agreement.

Regulation 3 of these Regulations which is a definitions regulation, is amended to include the definition of 'substitute parent agreement' as above.