

Our family's journey to surrogacy started when I was pregnant with my second child. We met a couple (friends of family) who had adopted a child and were in the process of attempting to adopt a sibling. They explained how few children were put up for adoption each year in their region, and that they were well down the list for consideration since they were parents already. Our family is no stranger to adoption; my brother, my husband, his sister, and his mother were all adopted, so we were a sympathetic ear.

Six months after our child had arrived, I couldn't stop thinking about this couple and how I wished there was something I could do to help them. In conversation with my husband, I brought up the idea of offering to carry a child for them. Coincidentally he had thought the same thing to himself, but he felt it was too large a suggestion to make. However, the fact that we had each considered it was a sign that it was the right thing to do, and we should at least try to move forward with it.

We made the offer to the couple, and while they were touched and grateful that we would offer such a thing, unfortunately their circumstances meant they did not qualify for surrogacy, and they would have to decline.

I thought that might have been the end of our journey right there; I was so disappointed to not be able to help this couple. After a couple of months, we decided to try to find someone else to help – someone that we didn't already know. We put feelers out through our friends and local community to see if there was anyone within our wider network that we could help, but after about a year with no news we decided to look online.

I joined the NZ Surrogacy forum, and the (now closed) Eden Facebook group. It wasn't long before we saw a Facebook post from a couple in another city who were looking for a surrogate and sent them a message. After messaging back and forth for a month or two, we decided to meet in person to see if we would be a good match. They flew to our city, and we spent an afternoon getting to know each other. After asking (and answering) a lot of questions, we decided that we would move forward and start the ball rolling with our application to ECART. The approval process went smoothly, and after 2 rounds of IVF and 5 transfers I was finally pregnant with their first child.

Throughout the process and pregnancy, I had incredible support from my husband and children. As mentioned above – we had each come to the idea of surrogacy independently, and neither of us had to be convinced by the other. We overwhelmingly had support from our friends and acquaintances, and the only person who expressed doubts initially was my mother. Having adopted a child herself, she could not imagine willingly adopting *out* a child and thought it might be too hard emotionally for me to bear – but her doubts didn't last long when she saw how determined and positive, we were about the whole thing. She has since said one of the best feelings she has ever experienced was visiting us all in hospital after the baby was born and seeing the new mother (and grandmother) with the baby and experiencing it from the other side.

We found the whole process so rewarding and fulfilling, that 6 months later when we visited the baby, we offered to do it again! The couple are now parents to two children, born almost exactly two years apart.

Given my experience as a surrogate, it will come as no surprise that I have been following the Improving Arrangements for Surrogacy Bill. On reading the Bill, however, I believe that in its current form, the bill has elements that are concerning for both the surrogate and the baby. Of particular concern are the 'Surrogacy Orders' that this Bill introduces.

Surrogacy Orders are court orders that, if agreed by both the intending parents and the surrogate, enforce the custody transfer of the baby to the intending parents within ten days of their birth. What could be wrong with this you might wonder? I see several problems and dangers here.

*Scenario one: No parent to advocate for baby in an emergency*

The Bill states that, if a Surrogacy Order is in place, then "from the birth of the child...the surrogate and any partner of the surrogate are not, for any purpose, parents of any child of the pregnancy and no longer have the rights and liabilities of parents of the child." What this means is that in the event of an emergency or premature labour, and if the intending parents are not immediately available and contactable, the child has no legal guardians present when born. By law, the surrogate becomes no more than a bystander in this situation and would not be legally able to make any necessary medical decisions or even potentially offer skin-to-skin contact. In my case, I live in Wellington and our intending parents live in Auckland. If I'd given birth suddenly, the baby would essentially be under the care of the state for the several hours it would take for them to get there.

*Scenario two: Death of the intended parents*

Another unlikely but important scenario is what if the intended parents were to die, and a Surrogacy Order was in place? As noted above, as the surrogate, I immediately lose the 'rights and responsibilities of a parent' when the child is born and so the child could become a ward of the state. As the surrogate family, we have always held that we will always do what is in the child's best interest, including caring for the child if the parents are unable to do so. We hate the thought of the child going into the care of Oranga Tamariki in such a situation, when we are literally right there, prepared, and willing to care for them until other arrangements can be made.

Admittedly, these are unlikely scenarios, but we are talking about an innocent human life – a beautiful baby – and as such we owe it to them to consider what is in their best interest under even the most unlikely (but significant) scenarios. My husband and I took our role as surrogate incredibly seriously, and we considered and discussed these very scenarios in our counselling sessions, to make sure we had a plan and were on the same page.

*Scenario three: A breakdown of the relationship between the Intending Parents and the Surrogate*

Sadly, a more likely scenario is a breakdown in the relationship between the intending parents and the surrogate. Presently, surrogacy in New Zealand is and has to be a wholly altruistic endeavour, and as such, there is every incentive for each party to do their very best to maintain a positive and constructive relationship. However, the advent of Surrogacy Orders takes surrogacy from being purely altruistic to being at least partially contracted.

If the Surrogacy Order is enacted, the surrogate essentially becomes no more than a walking incubator that the parents can discard once the child is born, and even prior to the birth. Consequently, there is not nearly the same incentive or need for the relationship to stay healthy and happy, and for both parties to act in good faith. After all, a Surrogacy Order means that the surrogate, by law, has to hand over baby, and loses all rights the moment baby is born, completely irrespective of any change in circumstances. Current law at least allows for the surrogate to be satisfied that baby is going to the best home after they're born, rather than be committed to a decision made months earlier, perhaps under very different circumstances.

Or another example: the Bill allows for the intending parents to reimburse the surrogate for reasonable costs, such as for medical bills. But if the relationship between IPs and the surrogate breaks down and a Surrogacy Order is in place, the baby is going to the IPs irrespective, so there is the potential for the IPs to simply choose not to reimburse the surrogate from that point.

These are some of our concerns with the Bill as it stands. We would be much more comfortable with something akin to a specific surrogacy amendment to the Adoption Act, where the adoption paperwork (sans name and birthdate of the child) can be submitted to the court before the birth. After the birth, and after a final 'OK' from everyone, a magistrate can simply fill in the required final information and have it completed on the next available court date. This would avoid the 'contracting' nature of the Improving Arrangements for Surrogacy Bill, which, in our opinion, are very biased towards the intending parents but have potential adverse ramifications for the surrogate and baby.

Surrogacy is a sensitive and complex subject, but being a surrogate is also an immensely rewarding experience. While I was the one to carry these babies, after they were born, they have only ever been cared for by their parents. Just like any other child they are thriving with parents who love them and moved heaven and earth to have them. And let us not forget the grandparents and aunts and uncles who thought they'd never have grandchildren or nieces or nephews and now have the joy of these children in their lives.

While we can understand that intending parents yearn for a legal framework that allows them the same immediate custody of their child as children born from conventional pregnancies – the reality is, that they will always need at least one other party to carry the child. Surrogates care for the families they want to help. We care deeply for the children we carry. Please don't side-line us after we give you the most precious gift we will ever have in our possession.