

CENTER *for* REPRODUCTIVE RIGHTS

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October 23, 2023

House Judiciary Committee
124 North Capitol Avenue
Lansing, MI 48933

Via E-MAIL

Honorable Rep. Kelly Breen
KellyBreen@house.mi.gov

Honorable Rep. Kimberly Edwards
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Honorable Rep. Andrew Fink
AndrewFink@house.mi.gov

RE: Michigan Family Protection Act

Honorable Chair Breen, Vice Chair Edwards, Vice Chair Fink, and members of the House Judiciary Committee:

The Center for Reproductive Rights (the “Center”) submits this letter in support of the Michigan Family Protection Act (“Act”). If enacted, the Act would protect the rights of all parties to a surrogacy agreement, including the rights of persons acting as surrogates, children born via surrogacy, and intended parents. In particular, the Center is encouraged by the strong provisions in the Act that protect the interests and rights of persons acting as surrogates, including to bodily autonomy.

As a legal advocacy organization, the Center uses the power of law to advance reproductive rights as fundamental human rights around the world. Part of our mission is to ensure that people’s reproductive autonomy and rights are protected and that all people have meaningful access to fertility care— including the care necessary to build their families. The Center believes that, in many contexts, legislation regulating compensated gestational surrogacy has the potential to ensure legal certainty and the respect, protection, and fulfilment of the human rights of all stakeholders impacted, particularly the rights of the person acting as surrogate to bodily autonomy. Such legislation also has the potential to recognize and address power differentials in compensated gestational surrogacy arrangements between persons acting as surrogates and intended parent(s) that may be rooted in gender, economic, and structural inequalities.

In this context, authorizing legislation must guarantee the human rights, including

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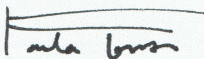
the sexual and reproductive rights, of persons acting as surrogates. This includes, but is not limited to, ensuring access to available, accessible, acceptable, and of good quality sexual and reproductive health information and services free from discrimination, coercion, force, and violence. The Center is thus glad to note sec. 303 in the Act, which secures the person acting as surrogates' right to use a health care provider of their own choosing and to make all health and welfare decisions regarding themselves and their pregnancy.

The Center is also reassured to see sec. 301 requiring that intended parent(s) and the person acting as surrogate have separate, independent legal representation throughout the agreement negotiation process and duration of the agreement. Additionally, the Center appreciates that the bill centers the diversity of Michigan families by recognizing single parents, unmarried couples, and LGBTQ couples as intended parents and provides a pathway to parentage for all families formed through assisted reproduction.

Enacting the Michigan Family Protection Act would add Michigan's name to the growing list of states that have legalized and regulated surrogacy, including compensated surrogacy, better securing the rights of surrogates, intended parents, and all children born via surrogacy agreements. It would also help ensure equal treatment for single-parent, unmarried couples, and LGBTQ families in establishing their parentage when building their family via assisted reproduction.

If enacted, the Michigan Family Protection Act will go a long way toward ensuring the rights of people acting as surrogates, including to bodily autonomy, while positively influencing the societal definition of family, enabling Michiganders to have children via assisted reproduction, including surrogacy, and critically, to secure their child-parent relationship.

Sincerely,



Karla Torres
Senior Human Rights Counsel
Center for Reproductive Rights