



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair), Mr Andrew Braddock MLA

## Submission Cover Sheet

Inquiry into Parentage (Surrogacy) Amendment Bill 2023

**Submission Number: 007**

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4 December 2023

Standing Committee on Justice and Community Safety  
ACT Legislative Assembly  
GPO Box 1020  
Canberra ACT 2601

By email: [LACommitteeJCS@parliament.act.gov.au](mailto:LACommitteeJCS@parliament.act.gov.au)

Dear Committee,

### **Inquiry into the Parentage (Surrogacy) Amendment Bill 2023**

The ACT Law Society (the Society) welcomes the opportunity to provide a submission to the Committee as part of the inquiry into the Parentage (Surrogacy) Amendment Bill 2023 (the Bill). The Society also thanks the Committee for the extension to make this submission.

The Society is the peak professional association that represents, advances, and defends the interests of an independent legal profession in the ACT, and lobbies for 'good law' in the ACT region through engagement in law reform processes. The Society has established a range of committees with relevant subject matter expertise and experience to support our purpose and strategic goals. In relation to this Bill, the Society has engaged with its Family Law Committee. Further, the Society notes its appreciation for the ongoing consultation during the development of the Bill by the ACT Justice and Community Safety Directorate.

The Society supports the objectives of the Bill, and in particular supports reforms which:

- adopt language consistent with that used within the surrogacy community and other jurisdictions (i.e., *intended parents* and *surrogacy arrangements*);
- expand the eligibility for altruistic surrogacy arrangements to single individuals;
- permit gestational and traditional surrogacy, and remove the requirement for the intended parents to have a genetic connection to the child;
- allow advertising for (legally compliant) altruistic surrogacy agreements;
- ensure that surrogates have the same rights to manage their pregnancy and birth as any other pregnant person;
- introduce important safeguards for parties to surrogacy arrangements, including requiring:

- surrogacy arrangements to be agreed in writing prior to conception;
- all parties to a surrogacy agreement to seek legal advice prior to agreeing to a surrogacy arrangement; and
- all parties to a surrogacy agreement to undertake counselling prior to agreeing to a surrogacy arrangement.

The Society notes that proposed subsection 28F(3)(a) provides that an application for a parentage order for a child in relation to an altruistic surrogacy arrangement can only be made after the child is at least 4 weeks old and before the child is 6 months old. However, there may be some circumstances in which a parentage order is sought after the child is 6 months old and it might be appropriate to give the Court a discretion to permit applications outside the time limit (30 days after birth of the child to 6 months of age) where the Court is satisfied there are exceptional circumstances to justify that action. An example of this is contained in subsection 16(3) of the *Surrogacy Act 2010 (NSW)*.

Yours sincerely,

Simone Carton  
Chief Executive Officer