

“Surrogacy” describes a situation in which one woman carries a child to term on behalf of another woman or couple who find themselves infertile or otherwise unable to have children by normal means.

### **Surrogacy in Western Australia**

The woman who carries the pregnancy is referred to as the ‘surrogate’ of the other person or couple. In Western Australian law she is referred to as ‘the birth mother’.

The person or couple who wish to become parents through a surrogacy arrangement are referred to in WA law as the ‘arranged parent’ or ‘arranged parents’.

Some key elements in the WA legislation :

- The *Surrogacy Act 2008* permits two things to occur:
  - Persons may enter ‘surrogacy arrangements’ which cover all aspects of surrogacy up to and including the birth and registration of the child, and
  - Persons may seek a ‘parentage orders’ from the WA Family Court, which will transfer legal parentage of the child to the arranged parent/s.
- The best interests of the child are always to be the paramount consideration.
- Only women over the age of 25 may act as birth mothers.
- Surrogacy cannot be ‘for reward’, although the reimbursement of ‘reasonable expenses’ is permitted.
- Surrogacy arrangements are not enforceable except as to the reimbursement of reasonable expenses.
- Surrogacy will normally involve the use of IVF, and donated eggs and/or sperm can be used to conceive the child.
- Once born, the child must be registered as a child of the birth mother, but official parentage may be altered on application to the Family Court of WA so that the child can be considered legally the child of the arranged parents.
- Oversight of all surrogacy arrangements involving IVF rests with the Reproductive Technology Council.
- All individuals and couples who are party to surrogacy arrangements must complete comprehensive medical and psychological assessments, as well as seek independent legal advice. Since this includes the donors of gametes, as many as eight adults may need to fulfill this requirement: the arranged couple, the birth mother and her partner, the egg donor and her partner, and the sperm donor and his partner.

- Not all IVF clinics will offer surrogacy services. Those that do are required to ensure that all aspects of the *Surrogacy Act 2008* and associated regulations are adhered to.