



HUMAN
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The Honorable Asw. Valerie Vainieri Huttle
Chair, Assembly Human Services Committee
State House Annex
Committee Room 16, 4th Floor
P.O. Box 068
Trenton, NJ 08625-0068

March 18, 2015

Re: SUPPORT for S866/A2648, the New Jersey Gestational Carrier Agreement Act

Dear Chairperson Vainieri Huttle and Members of the Assembly Human Services Committee:

The Human Rights Campaign (HRC), on behalf of its nearly 50,000 members in New Jersey, thanks you for holding a hearing on S866/A2648, a vital measure that will allow New Jersey residents to enter into gestational surrogacy agreements and establish appropriate parentage of a child born thereto. We urge you to pass this important legislation.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. HRC believes that every child has the right to a safe, happy, and healthy home and that states should establish legal mechanisms to allow for family creation and recognition.

The New Jersey Gestational Carrier Agreement Act (S866/A2648) would authorize gestational carrier agreements under New Jersey law. A gestational carrier agreement is a contract in which a gestational surrogate agrees to carry and give birth to a child, using assisted reproduction, to which they have no genetic relation on behalf of an intended parent. If a gestational carrier agreement is executed and filed under this bill, the intended parent would become the legal parent of the child at birth and the gestational carrier would have no parental rights or duties. Gestational surrogacy is distinguished from traditional surrogacy, in which the carrier makes use of her own egg and therefore has a genetic relation to the child.¹

The purpose of a gestational surrogacy agreement is to answer many of the questions that may arise during pregnancy, such as who will have custody of the child if something were to happen to the intended parents prior to the birth. The contract will not only provide guidance in the event of a dispute, but it can also prevent disputes from occurring by

¹ See In re Baby M, 109 N.J. 396 (1988).

considering all the contingencies of the process beforehand. Moreover, such an agreement will provide protection for the gestational surrogate, ensuring that such a surrogate has an independent attorney, an outline of financial responsibilities, coverage of reasonable expenses, and “the right to medical care for the pregnancy, labor, deliverer, and postpartum recovery provided by a physician, advance practice nurse, or certified nurse midwife of her choice.”² This legislation will successfully create gestational carrier agreements that meet each of these needs.

Allowing for surrogacy is especially important to members of the LGBT community as a method to establish parentage and create a family. Unlike some other methods of family creation, surrogacy may allow such couples to have a genetic relation to their children.

Over the past several years, gestational surrogacy has substantially increased as an option for family creation. Therefore it is vital that states provide a workable legal framework to govern this process. If this bill is passed, New Jersey will join 14 states which currently have laws that allow for gestational surrogacy agreements.³ The New Jersey Gestational Carrier Agreement Act will modernize New Jersey law and standardize a necessary government function in a simple way that is consumer friendly, safe, and professional.

We urge you to swiftly pass this important legislation. If you should have any questions regarding HRC’s support for S866/A2648, please contact me at 202-572-8960 or by email at Alison.Gill@hrc.org.

Sincerely,



Alison Gill, Esq.
Senior Legislative Counsel
Human Rights Campaign

This testimony is endorsed by Garden State Equality.



Andrea Bowen, MSW
Executive Director
Garden State Equality

² New Jersey Senate Bill 866 (2015).

³ Gill, A.M. (2015). *2014 State Equality Index*. Washington, DC: Human Rights Campaign Foundation. Available at www.hrc.org/SEI