

PRACTICAL NEWS
LEGAL ALERTS

New York's Child-Parent Security Act (CPSA) Provides a Clear Path to Parenthood and Protections for Surrogates and Donors

New York law currently criminalizes surrogacy arrangements where a woman is paid for carrying a child, which has forced many families to travel to other states to take advantage of their compensated surrogacy regimes. That is all about to change.

On February 15, 2021, The Child-Parent Security Act ("CPSA") will go into effect, which finally legalizes compensated gestational surrogacy and changes the definition of a "parent," for New York residents who conceive via assisted reproduction.

Prior to the CPSA, New York was one of only three states to criminalize compensated gestational surrogacy, and the term "parent" was usually determined through genetics, adoption or the marriage of parents of a child born during the marriage. Considering the previous uncertainty of rights of intended parents and donors, the CPSA provides a clear path to determining parentage upon birth of a child without costly adoptions for unmarried, different-sex or same-sex couples. Similarly, single parents who conceive with donated genetic material can obtain a judgement declaring them to the only legal parent of the child, a remedy which was previously unavailable in New York.

The CPSA also addresses embryos remaining after a marriage or relationship ends. The parties can now more easily address parental responsibilities, including control over the embryos and entering

into a written agreement to relinquish rights and control to the one party. In such cases, the parent who gives up parental rights will be absolved of any parental responsibilities of resulting child(ren). In addition to protecting the rights of the intended parents and children born using assisted reproductive technology, the CPSA provides sweeping protections for surrogates, via the newly created "Surrogate Bill of Rights," which gives the surrogate control over their own personal health decisions, the right to independent counsel, comprehensive health insurance policy, life insurance policy, psychological counseling and the right to walk away from an agreement prior to pregnancy.

Passage of the CPSA will provide New Yorkers an ethical and practical path to building families using assisted reproductive technology. Phillips Nizer's Assisted Reproductive Technology Practice is here to help navigate the process with you.

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Richard J. Adago co-chairs the firm's New York Matrimonial & Family Law Practice. Richard is a seasoned litigator with over 27 years of experience representing high net worth individuals in divorce proceedings, and advising clients with respect to property distribution agreements, custody issues, prenuptial and post-nuptial agreements, paternity suits, and other matrimonial matters relating to real estate, tax, and trust and estate planning. Richard also represents individuals in the ever-evolving area of same-sex divorce litigation. Outside of his daily practice of law, Richard has been an adjunct professor at Fordham Law School since 2012. Richard was selected to serve as a Mediator on the New York County Supreme Court Roster of Matrimonial Mediators in February 2020 and also engages in private mediation.