

Emma Waters Michigan HB 5207 Testimony

Thank you for the opportunity to provide my analysis of HB 5207, the "assisted reproduction and surrogacy parentage act."

This bill moves beyond restorative care for infertile couples and opens the door for anyone to claim the right to make a child, even if they aren't infertile.

We value babies and sympathize deeply with those who struggle to conceive. Because we recognize the value and importance of children, however, we want to ensure that the law protects children best from any possible abuse or harm. Even if this seemingly complicates the process, as is the case with everything from adoption to organ donation. This bill fails to do this.

First, this bill uses the gender-neutral term "individual" or "parent" to refer to all parties, including the surrogate mother. Of course, only women have the biological potential to get pregnant and bear children. Indeed, the word "woman, women, or mother" does not appear once in this bill. This rejects the importance of biology, even in the act of pregnancy itself! Such language fuels a culture of female erasure. Furthermore, HB 5207 allows parents to erase the surrogate mother altogether and not even list her on the birth certificate, even though she is the first mother this child will ever know and is the woman to gestate and birth the child. The mother/child bond goes much deeper than a contract: surrogate mothers and children share life-enhancing DNA, the child learns the surrogate mothers voice and smell, and the surrogate's own disposition shapes the temperament of the child. This cannot simply be erased or ignored through a commercial contract, like this bill intends to do.

Instead, the bill further rejects the importance of biology in the creation and raising of a child. It claims that “a donor is not a parent of a child conceived by assisted reproductive under a surrogacy agreement.” A donor refers to the biological parent of the child, i.e. the person who sells their sperm or egg for the creation of the child. It creates a legal separation between a child and his or her biological parents and surrogate mother. The same is true of the surrogate mother who is legally required to sign away all legal right to the child she bears (part three of the bill).

Further, in section 109, the bill places an undue burden on children created through this agreement by making it exceptionally difficult for them to access information about their medical history, familial origins, and more. Michigan should, in the least, follow the direction of Colorado which banned all anonymous egg and sperm donation. Colorado rightly recognized, given the testimony of countless donor conceived persons, that children have a need to know their biological parents.

The only difference between baby selling (a state and federal crime) and a legitimate surrogacy contract as HB 5207 outlines is the *timing* of the contract. If a child is conceived prior to a contract, then the law condemns this as an inhumane act of baby selling. But, if the contract is signed first as HB 5207 says, then it is legally permissible. This is a difference in degree, not kind. If a man purchases the necessary paperwork, a donor egg, an in vitro fertilization technician and pays a woman to gestate and birth the child for him, the line between a legitimate contract and baby selling disappears. Unlike adoption, which requires extensive background checks, home visits, and interviews, no such precautions are in place in this parentage act. Further, adoption does not allow for the exchange of money at any point in the process while HB 5207 encourages a highly lucrative industry to create, buy, and sell children, contrary to the best interest of the child.