

BILL 12 FAMILY LAW REFORM

On March 30th, the Minister of Justice, Simon Jolin-Barrette, tabled his Bill 12 on family law reform in matters of filiation, which deals with the rights of surrogate **mothers and children born of a surrogate pregnancy**.

Currently, under article 541 of the Civil Code of Québec, any agreement by which a woman undertakes to procreate or bear a child on behalf of another person is null and void.

However, the bill provides, in article 541.1 C.C.Q., that this will now be possible.

The said article provides that a single person or spouses (without specifying "spouse of the opposite sex") may use a woman or a person who is not a party to the parental project to give birth to the child.

The advancement of this bill is worrisome, because it completely ignores any reflection and rights related to the child who will be torn away from its biological or natural mother, despite the title of the bill which is entitled "rights of children born of a surrogate pregnancy project." Children will suffer the choice of adults without having rights to establish parentage to their biological parent in the future.

"The family law lawyers' brief also refers to the Casablanca Declaration, signed on March 3rd by 100 experts from 75 nationalities, which calls for the abolition of surrogate motherhood "in all its modalities and forms, whether paid or unpaid".

Many organizations are against this practice, and several countries in the world prohibit it such as France, Switzerland, Germany and Spain.

[1] Vers une « industrie » des mères porteuses au Québec, La Presse, 31 mars 2023, <https://www.lapresse.ca/actualites/2023-03-31/vers-une-industrie-des-meres-porteuses-au-quebec.php>

Moreover, this bill puts all the risks on the "surrogate mother". Important risks can result from this, such as perinatal mortality, risk of post-partum depression and that, according to some researchers, there would be more risks for surrogate mothers than others. However, no compensation is foreseen because the contribution must be free of charge, except for the loss of work income and reimbursement of certain expenses incurred due to the pregnancy, but no more. As the detailed study in committee continues, there is still time to express your disagreement with this bill and your comments on the website of the National Assembly at the following address:

<https://assnat.qc.ca/fr/travaux-parlementaires/commentaire.html?type=ProjetLoi&id=22563&url=travaux-parlementaires/projets-loi/projet-loi-12-43-1>

or

Contact your MNA to let him/her know that you do not agree with this bill.

To contact your MNA, click on the following link:

<https://www.noscommunes.ca/Members/fr/search?caucusId=all&province=QC&gender=all>

(You will find the addresses by clicking on the button, click on the picture, and then on contact and you will find the MP of your choice.)