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3 Title: Surrogacy Options for Michigan Parents  
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5 Introduced by: David Whalen, MD, for the Kent County Delegation  
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7 Original Author: Adam J. Rush, MD  
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9 Referred To:  
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11 House Action:

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14 Whereas, the AMA supports surrogate parenting “also termed Third Party Reproduction” as  
15 a form of assisted reproduction in which a woman agrees to bear a child on behalf of and  
16 relinquish the child to an individual or couple who intend to rear the child, and  
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18 Whereas, such arrangements can promote fundamental human values by enabling  
19 individuals or couples who are otherwise unable to do so to fulfill deeply held desires to raise a  
20 child, and  
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22 Whereas, gestational carriers in their turn can take satisfaction in expressing altruism by  
23 helping others fulfill such desires, and  
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25 Whereas, in the United States, individual states have the power to determine the legality of  
26 surrogacy agreements and surrogate compensation, and  
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28 Whereas, the state of Michigan is one of only three states that are outliers on surrogacy law,  
29 and  
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31 Whereas, in the state of Michigan statute prohibits compensated surrogacy contracts, and a  
32 birth certificate naming both intended parents cannot be obtained, and  
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34 Whereas, the state of New York in February 2021, made compensated surrogacy legal, and  
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36 Whereas, in 1998, MSMS endorsed the need to define and protect the legal status and  
37 rights of a child born as a result of surrogate parenting, and  
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39 Whereas, in 2018, Senator Rebekah Warren (D-Warren) introduced Senate Bill 1082 which  
40 to repeal Michigan’s current law and replace it with the Gestational Surrogate Parentage Act, but it  
41 failed to advance; therefore be it  
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43 RESOLVED: That MSMS work with the Michigan legislature to amend the current law to  
44 assist parents and newborns in Michigan, clarify parenting rights, and support compensated  
45 surrogacy options.  
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47 WAYS AND MEANS COMMITTEE FISCAL NOTE: Resolutions requesting governmental advocacy -  
48 \$25,000+

STATEMENT OF URGENCY: This is a timely issue that should be addressed promptly for physicians and patients. In light of recent legislative discussions at the state and/or local level, physicians need to be involved in updating this legislation.

**Relevant MSMS Policy:**

**Surrogate Parenting**

MSMS endorses the need to define and protect the legal status and rights of a child born as a result of surrogate parenting. MSMS endorsement does not extend to the process of surrogate parenting. (Prior to 1990)

**Relevant AMA Policy:**

**4.2.4 Third-Party Reproduction**

Third-party reproduction is a form of assisted reproduction in which a woman agrees to bear a child on behalf of and relinquish the child to an individual or couple who intend to rear the child. Such arrangements can promote fundamental human values by enabling individuals or couples who are otherwise unable to do so to fulfill deeply held desires to raise a child. Gestational carriers in their turn can take satisfaction in expressing altruism by helping others fulfill such desires.

Third-party reproduction may involve therapeutic donor insemination or use of assisted reproductive technologies, such as in vitro fertilization and embryo transfer. The biological and social relationships among participants in these arrangements can form a complex matrix of roles among gestational carrier, gamete donor(s), and rearing parent(s).

Third-party reproduction can alter social understandings of parenthood and family structure. They can also raise concerns about the voluntariness of the gestational carrier's participation and about possible psychosocial harms to those involved, such as distress on the part of the gestational carrier at relinquishing the child or on the part of the child at learning of the circumstances of his or her birth. Third-party reproduction can also carry potential to depersonalize carriers, exploit economically disadvantaged women, and commodify human gametes and children. These concerns may be especially challenging when carriers or gamete donors are compensated financially for their services. Finally, third-party reproduction can raise concerns about dual loyalties or conflict of interest if a physician establishes patient-physician relationships with multiple parties to the arrangement.

Individual physicians who care for patients in the context of third-party reproduction should:

- (a) Establish a patient-physician relationship with only one party (gestational carriers, gamete donor[s] or intended rearing parent[s]) to avoid situations of dual loyalty or conflict of interest.
- (b) Ensure that the patient undergoes appropriate medical screening and psychological assessment.
- (c) Encourage the parties to agree in advance on the terms of the agreement, including identifying possible contingencies and deciding how they will be handled.
- (d) Inform the patient about the risks of third-party reproduction for that individual (those including individuals), possible psychological harms to the individual(s), the resulting child, and other relationships.
- (e) Satisfy themselves that the patient's decision to participate in third-party reproduction is free of coercion before agreeing to provide assisted reproductive services.

Collectively, the profession should advocate for public policy that will help ensure that the practice of third-party reproduction does not exploit disadvantaged women or commodify human gametes or children.

**Sources:**

1. Third-Party Reproduction, The AMA Code of Ethics Opinion 4.2.4. [www.ama-assn.org/delivering-care/ethics/third-party-reproduction](http://www.ama-assn.org/delivering-care/ethics/third-party-reproduction)
2. The United States Surrogacy Law Map. [www.creativefamilyconnections.com/us-surrogacy-law-map](http://www.creativefamilyconnections.com/us-surrogacy-law-map)
3. Surrogate Parenting Act. <http://legislature.mi.gov/doc.aspx?mcl-act-199-of-1988>
4. The Child-Parent Security Act. [http://health.ny.gov/vital\\_records/child\\_parent\\_security\\_act](http://health.ny.gov/vital_records/child_parent_security_act)
5. Senate Bill 1082 (2018). <http://legislature.mi.gov/doc.aspx?2018-SB-1082>