

SURROGACY vs. ADOPTION

By D. Durand Cook, Esq.



It has been my privilege to work in the field of family formation emphasizing adoption and surrogacy for the last 25+ years.

Soon after Bill Handel formed the Center for Surrogate Parenting (CSP), I moved into the same suite of offices that CSP was in. I, for the last 25+ years, have worked on contracts relating to surrogate parenting with CSP. In recent years, I have had the pleasure of working with CSP's managing partner, Karen Synesiou, and have been in the position to observe hundreds of cases facilitated by CSP over the years.

When couples having an infertility challenge that has not been resolved medically come to me, with an interest in surrogacy, except for legal work that we perform, I quickly refer them to the Center for Surrogate Parenting and have heard back over the years from our clients that they were handled professionally and in a caring manner.

I hope the following information is helpful in trying to understand the difference in timing and cost and other variables between adoption and surrogacy.

FACTS ABOUT SURROGACY AND ADOPTION

Why surrogacy has become a more common way of building or forming one's family in recent years.

Perhaps the answer to surrogacy's rise in popularity lies in the fact that a certain percentage of potential adoptive parents not only want a healthy newborn infant but want an infant that is carried by a woman with an exceptionally "clean" health history, who has had prenatal care from day one with no substance abuse herself or in her family and of course, with no mental health challenges.

California is one of the leading states where surrogacy contractual arrangements are made.

Although the California legislature has not enacted any legislation in regulating surrogacy or egg donation, the California court system has favorably interpreted the surrogacy contracts over the years. The leading cases are that of Johnson vs. Calvert (5 Cal. 4th 84, 19 Cal. Rptr 494 [1993]) and Buzzanca (Re Marriage of Buzzanca), (61 Cal.App.4th 1410 [1998]).

Under the original concept of surrogacy, a woman would be artificially inseminated and carry a child that she is biologically related to for an intended parent couple that otherwise could not have children on their own. The surrogate mother would thus be biologically related as would be the sperm donor/husband.

With the advancement of new medical technology and procedures, much has changed in surrogacy. The one thing that is still the same is that the surrogate mother is willing to be psychologically and physically (medically) screened before a pregnancy is attempted and during the actual pregnancy before the intended parents take custody of the child at birth.

Because of the above-referenced legal cases, there are some in the medical and legal community who feel that if a couple does not find it ethically objectionable that they can obtain a totally unrelated sperm donor and egg donor and create embryos and have those embryos implanted in a third party surrogate mother and if a child or children result from the procedure that the Intended Parents' names go directly on the birth certificate at the hospital at the time of birth.

FAQ's ON SURROGACY

Q. What is the average cost of an independent adoption vs. a surrogacy arrangement?

A. Infant adoptions can range between \$10,000 to \$35,000. Most fall in the range of \$18,000 to \$30,000. The cost of surrogacy arrangements vary greatly depending on the component parts needed and the amount of time and medical attention needed to achieve a pregnancy. These costs range from \$40,000 to \$140,000.

Q. Since the cost of surrogacy is considerably higher than the average adoption, what are the main reasons why prospective parents choose surrogacy over adoption?

A. In surrogacy, there is an opportunity to maintain at least a partial biological connection between the intended parents and the child. However, ultimately receiving a "healthy" child is a big motivation for many couples. There are just so many more opportunities to work control into each stage of the surrogacy transaction.

Q. How long does it take from the time of commitment to bring a child into one's home (1) by way of adoption and, (2) by way of surrogacy?

In adoption, usually the time periods are measured by 3 different intervals. If you retain our firm to assist in meeting an appropriate birth mother, the first time period is usually 6-9 months. The 2nd time period is from your beginning a relationship with a birth mother until delivery and that will vary depending on the stage of the pregnancy that your birth mother is in when you meet her, but overall, the process usually takes a year or less from the time you retain us until a newborn infant is in your home. The 3rd time period is to complete your adoption through the court system which, in most cases, is about 6 months.

In surrogacy, most intended parents hire an agency to assist them in locating, screening, and working with an appropriate surrogate mother. It generally takes 1-3 months to locate an appropriate surrogate through an agency. The second phase is getting her cleared medically, psychologically and through a legal/contractual process and successfully transferring embryos to her uterus where pregnancy is confirmed, which takes another 1-2 months. However, if additional tries at achieving pregnancy are required, it could extend the process another 2-4 months. Then of course, the surrogate needs to carry 9 months for birth. Therefore the process normally can take between 13 and 17 months.

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