

June 1, 2019

Dear Governor Cuomo,

We, the undersigned women leaders and activists in the movement for gender, racial, and economic equality, respectfully urge you to end your support of the “Child-Parent Security Act” (A.1071-B/S.2071-A), which would legalize reproductive gestational surrogacy contracts and the reproductive surrogacy industry in New York State. Our opposition to this bill emerges from our conviction that the legalization of commercial surrogacy contracts in New York State will undermine women’s control over their bodies, thwart women’s reproductive rights, render women vulnerable to reproductive trafficking and exploitation, and further subordinate and harm women, especially those who are economically disadvantaged, in our State.

In 1998 the New York State Task Force on Life and Law, founded by your father Mario Cuomo, issued a report ***unanimously recommending that public policy prohibit commercial surrogate parenting because it is harmful to the women whose bodies are used and the children they bear***. We agree with conclusions of the Task Force’s 1998 report and are convinced that legalizing a commercial surrogacy industry in our State would grievously risk the physical and psychological health and economic well-being of the most marginalized women in our State—women in conditions of poverty who disproportionately have histories of being abused and discriminated against and women in debt, including young women with student loans or dreams of higher education—and would incentivize and unleash a ruthless industry eager to profit from their exploitation.

Many of the undersigned have partnered with your administration to protect the civil and human rights of women and girls in New York State and advance women’s safety and equality. While we understand that this bill to legalize surrogacy in New York State is well-intended, we believe that you have not been presented with vitally important information about the magnitude of harm that this bill, if signed into law, will inflict on the most economically vulnerable women in our State. We are convinced that if passed, this bill will legalize and legitimize the reproductive trafficking of women in New York State, open the door to the mass exploitation of women in consumer-driven contract pregnancies in our State, and ultimately render New York State a global destination for reproductive tourism. In the process, legalized commercial surrogacy in New York State will inflict incalculable harm on New York’s most vulnerable women. Since your father and his administration banned commercial surrogacy, experience has proven their prescience in assessing the undue risks and harms that would result from fostering a reproductive-surrogacy industry in our State.

Reproductive surrogacy creates risks to and impairs the physical health and well-being of the women who serve as surrogate mothers. In New York’s 2018 Report on the Status of Women and Girls, a key platform is reducing maternal mortality and improving women’s health. Legalizing and legitimizing reproductive surrogacy undermines these crucially important goals.

A 2017 study in *Fertility and Sterility*, one of the most frequently referenced scientific journals in the field of reproductive medicine, reported on 124 surrogate mothers and showed that they “had significantly higher obstetrical complications, including gestational diabetes, hypertension, use of amniocentesis, placenta previa, antibiotic requirement during labor, and cesarean section.” Legalized surrogacy, which routinely involves women being prescribed fertility drugs and implanted with multiple embryos, inevitably means more high-risk pregnancies and longer hospital stays for both surrogate mothers and any infants born, who face higher rates of preterm birth and low birth weights, as demonstrated by another study in 2015 in the *World Journal of Obstetrics and Gynecology*. Below are just three examples of the many cases in which surrogate mothers have suffered physical, psychological, and/or economic harm as a result of surrogacy contracts in states that have legalized commercial surrogacy.

On October 8, 2015 at St. Luke’s Regional Medical Center in Boise, Idaho, Brooke Brown, a three-time gestational surrogate mother tragically died owing to a placental abruption. The twins she was carrying for a wealthy couple in Spain, where surrogacy is illegal, also died. This horrific event occurred one day before Ms. Brown’s scheduled cesarean section. If she not been hired to bear another couple’s children, Ms. Brown would be alive today.

In 2015, Melissa Cook signed a contract to serve as the gestational surrogate for a single man she had never met living near Atlanta, Georgia. Once it was discovered that Ms. Cook was pregnant with triplets, the intended father claimed that he could not afford to care for all of them and demanded that Ms. Cook reduce the number of fetuses in her pregnancy. She refused and fought all the way to the U.S. Supreme Court seeking custody of the children. Ms. Cook lost the case, and the triplets she bore were taken from her over her objections. She remains anguished about the well-being of the three children to whom she feels a profound connection.

In December 2016, Jessica Allen gave birth to twins for a couple in China, where surrogacy is illegal. Unbeknownst to her, one of the babies she delivered was her own genetic child. Only after the Chinese couple noted that one of the children “looked different” did they contact Jessica to ask her and her husband to do DNA testing. When the DNA test revealed the mistake, the Chinese couple in possession of Jessica’s son demanded \$22,000 to return the child to her. Jessica was finally reunited with her child two months later, facing an \$8,000 bill from the agency that cared for her son in the interim.

Women who enter into commercial surrogacy contracts usually are poor or working class women who become surrogates out of economic need. The monies they glean from reproductive exploitation help pay the bills but, unlike monies from real sustainable employment, do so only temporarily. As a result many “surrogate mothers,” like Brooke Brown, enter into surrogacy contracts over and over. Surrogacy contracts are not a stable means of income and do nothing to help women develop job skills so that they can enter and advance in the workforce. Moreover, the risk of a life-changing or life-ending complication rises with each surrogate pregnancy.

Like sex trafficking and prostitution, commercial surrogacy is not only a dead end for women economically and physically, there are potential psychological risks as well. While studies exist that document the physical risks and harm of commercial surrogacy to women, there is little if any research on the psychological and emotional impact of carrying a fetus to term for nine months, facing and sometimes experiencing an array of health problems as a result, and enduring the physical and mental ordeal of labor and childbirth, only to hand over the baby to third-parties, often complete strangers. It is inconceivable to us that such an experience does not exact a significant psychological toll on the women involved. The fact that there are no studies of the psychological impact on women of the surrogacy experience that we are aware of is itself a reason to oppose and refuse to sign this bill into law.

Even if the fetus the woman carries is not developed from her egg, her body and mind, her caretaking and nurturing over nine long months, not including the period of time for embryo transplantation and post-delivery recovery, make this gestation possible. The “Child-Parent Security Act” presumes both that this contribution can be monetized and that the surrogate mother’s attachment and rights are subordinate to those of the individual or couple subsidizing the reproductive exploitation of her body. We strongly disagree and contend that existing New York State policy is correct in deeming commercial surrogacy contracts unconscionable and therefore unenforceable. Rejecting this humane and gender-sensitive policy for a law that recognizes and enforces commercial surrogacy contracts—and requires the woman who signs them, often without full awareness of their typically draconian restrictions on her body and its functions, to adhere to its terms-- is profoundly harmful to the surrogate mother and by extension to women in our State. Simply put, with legalized surrogacy women’s wombs become vehicles for the reproductive benefit of others and the third-party profit of a burgeoning industry.

Commercial surrogacy violates the human rights of women and principles of equality. For this reason the European Parliament rightly “condemns the practice of surrogacy, which undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of gestational surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in human rights instruments.” The European Union policy framework to combat violence against women calls upon all member nations to “acknowledge the serious problem of surrogacy, which constitutes an exploitation of the female body and her reproductive organs.” It also emphasizes “that women and children are subject to the same forms of exploitation, that both can be regarded as commodities on the international reproductive market, and that these new reproductive arrangements, such as surrogacy, augment the trafficking of women and children.”

European countries we look to as examples, such as France, Germany, and Switzerland, prohibit all reproductive surrogacy arrangements; a host of other countries—e.g., Austria, the United

Kingdom, Sweden, Spain, and Australia--allow only altruistic surrogacies. Countries in the global south and east that have seen the devastation wreaked by surrogacy tourism, such as India, Thailand, Nepal, and Cambodia, have wisely chosen to prohibit commercial surrogacy. Only nine states in the United States have legalized commercial surrogacy. By not only legalizing commercial surrogacy but authorizing surrogacy contracts for any parties who have been in residence for 90 days, the "Child-Parent Security Act" encourages wealthy individuals to traffic the women they intend to exploit as surrogate mothers to New York State, where they will be bound by the contract they sign.

Under your leadership, Governor Cuomo, New York State has become nationally recognized as a champion of women's rights and equality. The "Child-Parent Security Act" will tarnish that proud record as it opens the floodgates to the ruthless exploitation of economically desperate or disadvantaged women from New York State and elsewhere. We urge you to follow the example of your late father by opposing it and, should it pass the legislature, refusing to sign the "Child-Parent Security Act" into law.

Sincerely yours,

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