



the law office of
DEBRAH B. ROSENTHAL, APC

Steps in the Surrogacy Agreement Legal Process

1. Meet with Fertility Clinic/Agency to select a Surrogate and complete all necessary medical screening and psychological screening.
 - a. It may be necessary that you already have embryos in place before you can match with a Surrogate
2. Meet with the Surrogate and determine the agreed upon compensation package.
 - a. Review all insurance information-if the surrogate has insurance in place it will need to be reviewed to make sure it covers surrogacy
3. Retain an attorney for representation of the Intended Parent(s) and for the Surrogate. Each party will need their own separate counsel trained in surrogacy law.
4. Fertility Clinic/Agency will e-mail a "match sheet" containing information on the Surrogate and her compensation to the attorney for the Intended Parents and to the Surrogate's attorney.
5. The attorney for the Intended Parents will e-mail the Intended Parents a legal services agreement to sign and send back along with the legal fees due. This legal services agreement explains the attorney's roles and responsibilities to the Intended Parents and also establishes attorney client privilege.
6. Submit legal fees for drafting of the contract to the attorney or coordinate with Escrow to have funds sent.
7. The attorney will e-mail a draft of the contract to the Intended Parents and schedule a time to review either over the phone, Skype, or through their coordinator.
8. Once the Intended Parents approve the contract their attorney will e-mail the contract draft to the Surrogate's attorney who will review the contract with the Surrogate. All Parties must approve the final contract draft before signing.
9. Upon approval from all Parties, the final copy of the contract will be sent to the Intended Parents and the Surrogate for signing along with instructions on how to send the contract back.
 - a. The contract must be signed in the presence of a notary or the equivalent.
10. Once the attorney receives signed copies of the contract from the Intended Parents and the Surrogate, the attorney will issue final legal clearance to the fertility clinic which gives the Surrogate permission to start injectable medication.
11. Intended Parents will then be required to open and fund the Surrogate's escrow account.
 - a. Legal clearance will not be issued unless the escrow account is fully funded
12. At the end of the first trimester the Intended Parents' attorney will begin the Finalization of Parental Rights process which is a series of court documents that allows a pre-birth order to be obtained. This order instructs the hospital to list the Intended Parents' names on the birth certificate instead of the surrogate's name.
 - a. This process may vary depending on what state your surrogate delivers in and your home country.

Helping Your Family Grow