



CANADIAN FERTILITY AND ANDROLOGY SOCIETY
SOCIÉTÉ CANADIENNE DE FERTILITÉ ET D'ANDROLOGIE

Issue Update: Compensation for Third Party Reproduction in Canada

May 2018

The Canadian Fertility and Andrology Society offers the following statement, providing additional perspectives and information to support its Position Statement on *Compensation for Third Party Reproduction in Canada* issued in May 2017.

Overview:

Legalization of compensation for gamete (egg and sperm) donors and surrogates is an important issue that warrants priority consideration. Current federal legislation, introduced in 2004, has failed in its stated goals of protecting health, safety and rights and has put Canadians at risk. Prohibiting compensation has created a significant roadblock for prospective parents who face fertility challenges as they seek to build their families.

- The Assisted Human Reproduction Act, 2004 (Sections 6 and 7) prohibits payments to gamete donors and surrogates with severe penalties for contravening the Act. Reimbursement for direct expenses related to donation or surrogacy is allowed.
- The legislation has failed to meet its guiding principles: protection of health and well-being of women, and protecting the health, safety and rights of all involved.

Implications for Canadians:

Prospective parents who require donor sperm, donor eggs or a surrogate are forced into difficult and risky situations. They face shortages and long wait times: few individuals are willing to altruistically donate or act as surrogates without payment. Some resort to the unregulated and precarious Canadian underground market with no protection for either party. In some cases, expensive cross border purchases are pursued, forgoing control and ability to safeguard medical information. Canadians need accessible and reliable care in Canada.



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- Reproductive services, including donated sperm and egg and surrogacy, can be necessary for infertile men and women, cancer survivors, those who carry severe inherited genetic disorders, same sex couples, and single men and women.
- Members of the LGBTQ community are disproportionately affected by the law, as each member must enlist the help of a third party to build their family.
- Sperm from Canadian sources is limited with only one sperm bank operating in Canada.
- Egg donation is particularly onerous, involving hormonal treatment and medical care, limiting willing donors. Likewise, few are willing to act as surrogates without compensation.
- In Canada, an underground “grey market” for these services has emerged, sometimes operating online, including on social media, involving private financial arrangements without regulation or protection for either party.
- While payment for sperm and eggs is illegal in Canada, gametes are regularly imported from foreign countries where compensation is legal. This route is unnecessarily expensive with lack of control over the process and no safeguarding of information as might be useful for future access to medical history on behalf of the children born through these technologies.

Support for review and reform:

Member of Parliament Anthony Housefather (Liberal Mount Royal), an active proponent of decriminalization, proposes to introduce a Private Member’s Bill to this effect. This important issue warrants full discussion and support by policy makers. Eliminating criminal penalties and making way for appropriate protection of Canadians is in the best interests of everyone, including any children born using third party reproduction. Following decriminalization, an appropriate regulatory framework must be developed through consultation, including registries and protection of all parties.



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- The anticipated Private Member's Bill proposes to amend the Assisted Human Reproduction Act, removing the prohibition on payment for gamete donation and surrogacy.
- Decriminalization of compensation for these types of reproductive services is broadly supported, including among prospective parents, gamete donors, surrogates, patient organizations and the professionals who care for them. Canadians support the fundamental premise that building a family should not carry a criminal penalty.