SURROGACY AGENCIES — GUIDE

Surrogacy Laws by Country: US, Canada, UK, Australia

A country-by-country summary of surrogacy laws in the United States, Canada, United Kingdom, and Australia. Cites the Assisted Human Reproduction Act (Canada), Surrogacy Arrangements Act 1985 and Law Commission 2023 report (UK), state legislation (Australia), and US state-by-state variation.

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Surrogacy laws differ significantly across the four markets this directory covers. This guide summarises the key legal frameworks as of 2026-11-01. It is not legal advice. Consult a licensed family-law attorney in the relevant jurisdiction before proceeding.

United States

No federal surrogacy law. Each state sets its own rules.

- **Supportive states** (e.g., California, Connecticut, Delaware, District of Columbia, Maine, Nevada, New Hampshire, Rhode Island, Vermont, Washington): Statutes or case law explicitly permit gestational surrogacy, allow pre-birth orders, and protect intended parents' rights.
- **Restrictive or unclear states**: Some states prohibit compensation, void surrogacy contracts, or criminalise certain arrangements. Examples: Nebraska (surrogacy contracts void) and Louisiana (restrictions). **Michigan changed recently**: its 1988 ban on compensated surrogacy was repealed by the Assisted Reproduction and Surrogacy Parentage Act (2024 PA 24, effective 2 April 2025), which now permits and regulates surrogacy agreements (checked 2026-11-01).
- **Key resource**: The Uniform Parentage Act (2017) provides a model framework; several states have adopted versions.
- **Action**: Retain a family-law attorney licensed in the state where the surrogate will deliver. Confirm whether a pre-birth order or post-birth adoption is required.

Sources:

- Uniform Law Commission, "Uniform Parentage Act (2017)", accessed 2026-11-01. https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f
- American Bar Association, "Surrogacy Law by State" (various articles), accessed 2026-11-01.

Canada

Governing law: Assisted Human Reproduction Act (S.C. 2004, c. 2) ("AHRA"), current to 2026-09-30.

Key provisions:

- **Section 6**: Prohibits paying a female person to be a surrogate mother. Commercial surrogacy is illegal.
- **Section 7**: Prohibits paying for, offering to pay for, or advertising for the services of a surrogate mother.
- **Section 12**: Permits reimbursement of the surrogate's expenses related to the surrogacy (travel, medication, lost wages, maternity clothes, etc.) as set out in the *Reimbursement Related to Assisted Human Reproduction Regulations* (SOR/2019-193).
- **Enforcement**: Violations can result in fines up to $500,000 and/or 10 years imprisonment.
- **Parentage**: Determined by provincial/territorial law. Most provinces allow intended parents to obtain a declaration of parentage post-birth; processes vary.

Source: Justice Laws Website, "Assisted Human Reproduction Act", current to 2026-09-30, last amended 2020-06-09. https://laws-lois.justice.gc.ca/eng/acts/A-13.4/

Regulations: *Reimbursement Related to Assisted Human Reproduction Regulations* (SOR/2019-193), *Administration and Enforcement Regulations* (SOR/2019-194).

United Kingdom

Primary law: Surrogacy Arrangements Act 1985 (c. 49), as amended.

Key provisions:

- **Section 1**: Defines "surrogate mother" and "surrogacy arrangement".
- **Section 1A**: Surrogacy arrangements are **unenforceable** — neither party can enforce the agreement in court.
- **Section 2**: Prohibits negotiating surrogacy arrangements **on a commercial basis** in the UK. Offences carry fines and/or imprisonment up to 3 months.
- **Section 2(2A)–(2C)**: Non-profit organisations may facilitate surrogacy and receive reasonable payments covering their costs.
- **Section 3**: Restricts advertisements about surrogacy.
- **Parentage**: The surrogate is the legal mother at birth. Intended parents must apply for a **parental order** (Human Fertilisation and Embryology Act 2008, s. 54) after birth, typically taking 6–12 months.

Law Commission 2023 Report: "Building families through surrogacy: a new law" (published 29 March 2023).

Key recommendations (not yet enacted as of 2026-11-01):

- New pathway to legal parenthood from birth for domestic arrangements, overseen by non-profit Regulated Surrogacy Organisations (RSOs) regulated by the HFEA.
- Surrogate retains right to withdraw consent for a period after birth.
- New rules on permitted payments (medical, wellbeing, lost earnings, travel, pregnancy support) vs. prohibited payments (carrying the child, compensatory, living expenses).
- New Surrogacy Register for children to trace origins.
- Commercial surrogacy remains prohibited.
- Reforms to parental orders, including allowing orders without surrogate consent where child's welfare requires.

Sources:

- UK Legislation, "Surrogacy Arrangements Act 1985", accessed 2026-11-01. https://www.legislation.gov.uk/ukpga/1985/49
- Law Commission, "Surrogacy – Building families through surrogacy: a new law", published 29 March 2023. https://lawcom.gov.uk/project/surrogacy/
- Law Commission, "Building families through surrogacy: a new law – Summary of Report", 2023. https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/54/2025/12/LC_Surrogacy_Summary_of_Report_2023.pdf (the file lawcom.gov.uk links to; the 2025/12 path is the CDN upload date, not the report date — link checked 2026-11-01)

Australia

No uniform national surrogacy law. Each state and territory has its own legislation. Commercial surrogacy is illegal in all jurisdictions.

Key principles (common across states/territories):

- Only **altruistic** surrogacy permitted (reimbursement of reasonable expenses only).
- Surrogacy agreements are **not enforceable** (surrogate cannot be forced to relinquish the child; intended parents cannot be forced to accept the child).
- Surrogate is the legal mother at birth. Intended parents apply for a **parentage order** post-birth.
- Advertising for surrogates is restricted or prohibited.
- International commercial surrogacy: Some states (NSW, QLD, ACT) criminalise residents entering into commercial surrogacy arrangements overseas.

State/territory legislation (as of 2026-11-01):

- **NSW**: Surrogacy Act 2010 (NSW)
- **Victoria**: Assisted Reproductive Treatment Act 2008 (Vic)
- **Queensland**: Surrogacy Act 2010 (Qld)
- **Western Australia**: Surrogacy Act 2008 (WA) — note: WA restricts access to heterosexual couples and single women
- **South Australia**: Surrogacy Act 2019 (SA)
- **Tasmania**: Surrogacy Act 2012 (Tas)
- **ACT**: Parentage Act 2004 (ACT)
- **Northern Territory**: No specific surrogacy legislation (general contract and family law applies)

Federal oversight: The Attorney-General's Department maintains the national information portal *Surrogacy in Australia* (surrogacy.gov.au). The Australian Law Reform Commission (ALRC) was referred an inquiry into surrogacy laws in 2024; report due 11 September 2026.

Source: Attorney-General's Department, "Surrogacy", accessed 2026-11-01. https://www.ag.gov.au/families-and-marriage/surrogacy **Source:** Australian Government, "Surrogacy in Australia", accessed 2026-11-01. https://www.surrogacy.gov.au/

Cross-border considerations

- **International surrogacy**: Many intended parents from Canada, UK, Australia pursue surrogacy in the US where commercial surrogacy is legal in supportive states.
- **Legal risk**: The child's citizenship, parentage recognition, and the intended parents' legal

status in their home country can be complex. Some countries do not recognise foreign surrogacy parentage orders automatically.

- **Action**: Obtain independent legal advice in **both** the destination country and your home country before starting an international journey.

Quick reference table

Jurisdiction	Commercial surrogacy	Altruistic surrogacy	Legal parent at birth	Key statute
US (varies by state)	Permitted in some states	Permitted	Pre-birth order in supportive states	State statutes
Canada	Prohibited (AHRA s.6)	Permitted (expenses only)	Post-birth declaration (provincial)	AHRA S.C. 2004, c. 2
UK	Prohibited (SAA 1985 s.2)	Permitted (expenses only)	No — parental order post-birth	SAA 1985 c. 49
Australia (all states)	Prohibited	Permitted (expenses only)	No — parentage order post-birth	State Acts

Disclaimer: This guide summarises public statutes and reports as of 2026-11-01. Laws change. It does not constitute legal advice. Engage a qualified family-law lawyer in each relevant jurisdiction before making decisions.

Frequently asked questions

Is commercial surrogacy legal in Canada, the UK, or Australia?

No. Commercial surrogacy is prohibited in all three countries. Only altruistic (expenses-only) surrogacy is permitted.

Can I be the legal parent at birth in the UK?

Under current UK law (Surrogacy Arrangements Act 1985), intended parents must apply for a parental order after birth. The Law Commission 2023 report recommends a new pathway for legal parenthood from birth, but this has not been enacted as of 2026-11-01.

Do US surrogacy laws vary by state?

Yes. Some states (e.g., California) have clear statutes supporting gestational surrogacy. Others have restrictions or no statutes. Always consult a family-law attorney licensed in the relevant state.