

Act, being necessary for the welfare of the inhabitants of Washington County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1992.

May 26, 1992

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, Maryland 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 251.

As amended and enacted by the General Assembly, Senate Bill 251 provides that a "surrogate parentage contract is void and unenforceable as against State policy."

A typical surrogate parent agreement is one in which a woman (the surrogate mother) agrees to be impregnated by artificial insemination with sperm of the biological father, to carry the child to term and relinquish custody to the biological father after birth. The biological father usually agrees to pay all medical and other expenses and a fee to the surrogate mother.

I have received many letters from individuals who deeply believe that surrogacy is not wrong and is one of the few options that an infertile couple may have in creating a family. While adoption is often an alternative, surrogacy provides an option where the child is biologically related to one of the parents, and which may be preferable to a couple for reasons of their own.

At the same time, I respect the opinion of the proponents of the bill who believe that surrogacy and surrogate parentage agreements are morally wrong. However, given the differing views on this issue, I question the need to put this statement in statute.

Letters of advice from the Attorney General's Office during previous sessions of the General Assembly advise that it is likely that a Maryland court would hold that a surrogate parentage contract is unenforceable. The basis for this conclusion is Maryland's criminal statute that prohibits the sale, barter, or trade of a child (Article 27, § 35C of the Annotated Code), and Maryland adoption law which prohibits the receipt of compensation in connection with an adoption, except for hospital, medical, and legal services. Furthermore, it is my understanding that the vast majority of surrogacy arrangements work without the necessity of litigation. In the event that a dispute does arise and the court holds that the agreement is unenforceable, the issue of custody would remain before the court, to be determined considering the best interest of the child.

The bill does not make such contracts illegal. It does not seek to regulate such