

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Group: 2

Program: 1.4

Question No. SBE14/168

Senator Wright asked the following question at the hearing on 20 November 2014:

1. There have been recent cases, as reported in the media, where Australians have engaged in surrogacy arrangements overseas and there have been adverse outcomes as a result. One was the case of Baby Gammy.
 - a) What action is the government taking to prevent cases like this one from occurring in the future?
 - b) Does the government have plans to look at Federal laws on overseas surrogacy?
 - c) Premier Barnett has stated that Federal oversight of surrogacy is necessary. What discussions have occurred between Premier Barnett and the Federal government in relation to surrogacy?
 - d) At a COAG meeting in October, leaders agreed that one Commonwealth agency should have oversight of overseas adoptions. Will this agency also have oversight of surrogacy?
 - e) Does the government have any plans to instigate an inquiry into surrogacy?
2. Are Australians who are seeking to enter into overseas surrogacy agreements subject to any kind of screening?
 - a) If so, please outline the screening process.
 - b) What level of detail does the government require about an overseas surrogacy agreement when the commissioning parents apply for Australian citizenship for the child born through surrogacy?

The answer to the honourable senator's question is as follows:

1.
 - a) The regulation of surrogacy is a matter for states and territories. All states and territories (except the Northern Territory) have legislation dealing with surrogacy. The Australian Capital Territory, New South Wales and Queensland have also legislated to make it illegal for residents of those jurisdictions to enter into commercial surrogacy arrangements in foreign jurisdictions.
 - b) The Government is currently considering the Family Law Council's report on parentage under the *Family Law Act 1975*, including the recommendation for the Australian Law Reform Commission to conduct an inquiry into the full range of issues raised by international surrogacy and its impact on Commonwealth laws.

c)The department is unable to comment on any discussions between the Federal government and Premier Barnett.

d)No.

e)See answer to 1(b).

2. See answer to 1(a).

a)Any screening would be a matter for states and territories.

b)Questions about citizenship requirements are for the Minister for Immigration and Border Protection.