

Centre universitaire
de santé McGill



McGill University
Health Centre

Centre de la reproduction
Reproductive Centre

Surrogacy



What is gestational surrogacy?

Gestational surrogacy is a mutual arrangement in which a woman (the surrogate) volunteers to carry a pregnancy for a commissioning couple or person (the intended parents or parent). The surrogate is not biologically related to the baby she is carrying. The egg(s) and sperm come from the commissioning couple or possibly from an egg or sperm donor.

Although surrogacy can seem overwhelmingly complex, our team of experts – including fertility specialists, a reproductive psychologist, and nurse clinicians – is there to facilitate the process by guiding patients through the various steps. Patients interested in pursuing a surrogacy arrangement must seek legal counsel prior to treatment to ensure that all parties make the best decisions and follow the laws that govern surrogacy in Quebec.

Who should consider surrogacy?

- Women for whom pregnancy is medically contraindicated (due, for example, to severe heart disease or cystic fibrosis)
- Women born without a uterus or who have had a hysterectomy
- Women with recurrent pregnancy losses that cannot be treated
- Women with intrauterine scar tissue that cannot be treated
- Women who have undergone pelvic or abdominal radiation during treatment for cancer
- Same-sex male couples who wish to have a biological child

Surrogacy helps the intended parents feel involved in the pregnancy and birth of their own child.

How surrogacy works

Gestational surrogacy can take a number of different forms:

Using [eggs of the female intended parent] + [sperm of the male intended parent]

This option applies when the female partner has her own egg(s) but cannot become pregnant or carry a child. It enables both parents to have a genetic link to the child.

Using a [donor egg] + [sperm of the male intended parent]

This option applies when the intended female parent has no viable eggs to be fertilized with her partner's sperm. It also applies to male same-sex couples. This option enables at least one (male) parent to have a genetic link to the child.

Using [donor sperm] + [eggs of the female intended parent]

This option applies when the male intended parent has no viable sperm to create an embryo and the intended female parent has her own eggs but cannot become pregnant or carry a child. It enables at least one parent – the female – to have a genetic link to the child.

This option also applies when an intended single female parent has her own viable eggs but cannot become pregnant or carry a child. Her eggs are combined with donor sperm to create embryos, enabling her to have a genetic link to the child.

Using [donor egg] + [donor sperm]

This option applies when both intended parents have defined medical disorders that make it impossible to create an embryo. As in the case of adoption, the intended parents do not have a genetic link to the child.

Traditional surrogacy

In traditional surrogacy, the female surrogate agrees to be inseminated with the sperm of the intended father. The female carrying the pregnancy is using her own egg and therefore has a genetic link to the child. After the birth, the surrogate agrees to terminate her parental rights and the intended mother completes a stepparent adoption. Traditional surrogacy is usually not a recommended option due to its complex legal and psychosocial risks.

Finding a surrogate

A gestational surrogate could be someone you know (a relative or friend who agrees to carry the pregnancy) or someone introduced to you by a third party.

Because it is illegal in Canada to either pay someone to act as a surrogate or even to advertise that you wish to do so, finding a surrogate can be a lengthy and difficult process. There are agencies and consultants that help connect surrogates and intended parent(s), but it is illegal for these agencies to charge for their help. For this reason, in almost all cases, the intended parent(s) are already acquainted with the gestational surrogate with whom they will work. Intended parents should familiarize themselves with both the provincial and federal laws that deal with the issue of compensation in cases of surrogacy.

Although it is illegal to pay a surrogate in Canada, intended parents should reimburse her for expenses incurred as a result of the pregnancy.

Choosing a surrogate

- The surrogate must be between the ages of 21 and 40, inclusive.
- It is highly recommended that the surrogate have already completed her family or had a least one healthy child of her own.
- There should be no outside obligation or imbalance of power between the intended parents or parent and the surrogate. For instance, the surrogate should not be an employee of the intended parents.
- Intended parents should consider all relevant medical, legal, social, and ethical issues pertaining to a prospective surrogate.
- The surrogate should not have a history of pregnancy-related illnesses or complications.

The surrogacy process – what steps to take

Patients should be well informed of the key issues and steps involved in pursuing a surrogacy arrangement:

Medical consultation

Even before any surrogacy options can be planned, both the intended parents and the potential surrogate should consult with a fertility specialist and undergo medical testing to determine if they are suitable candidates.

Legal counsel

The intended parents and the potential surrogate should both consult with their own lawyers to ensure that they are aware of the legal issues surrounding the surrogacy.

While the law surrounding surrogacy is relatively new, it is still preferable that the lawyers in question have previous experience in arranging surrogacy contracts. The MUHC Reproductive Centre does not endorse any lawyers specifically, but we can refer you to lawyers with experience in this field.

Both the intended parents and the surrogate must demonstrate that they have consulted a lawyer regarding a surrogacy arrangement before proceeding with treatment at the MUHC Reproductive Centre.

Counselling

Surrogacy is a process that involves several psychological, social and ethical issues. For that reason, it is required that both the surrogate and the intended parent(s) receive

psychoeducation and an evaluation. Our psychologist will meet with the surrogate (and her partner, if applicable) to explore issues such as coping with feelings of attachment to the baby, her relationship with the intended parent(s), and the ways that her surrogacy might impact her personal life: relationships with her partner, her own children, friends, family, and beyond.

The intended parent(s) are required to meet with our psychologist independently to discuss such issues as the nature of their relationship with the surrogate and plans for the future relationship between the surrogate and the child. A third session with both the surrogate and the intended parent(s) may be required.

Checklist for intended parents

- ☐ Complete all the required tests
- ☐ Complete the forms: Oocyte provider details and Sperm provider details
- ☐ Attend a counselling and evaluation session with the psychologist
- ☐ Sign the appropriate consent form(s)
- ☐ Obtain legal counsel to learn about the legal aspects of surrogacy
- ☐ Request a letter from the lawyer confirming the consultation
- ☐ Make an appointment, for you and the surrogate, to see a fertility specialist at the MUHC Reproductive Centre. At this appointment, please bring the following:
 - Lawyer's letter
 - Signed treatment consent form
 - Details of oocyte provider
 - Details of sperm provider
- ☐ Call the Nursing InfoLine when the above steps are completed. Your names will be given to the nurse responsible for planning your treatment.

Checklist for surrogates

- ☐ Complete all required tests
- ☐ Attend a counselling and evaluation session with the psychologist
- ☐ Obtain separate legal counsel to learn about the legal aspects of surrogacy
- ☐ Request a letter from the lawyer confirming the consultation
- ☐ Complete the form: Details of surrogate
- ☐ Make an appointment, for you and the intended parents, to see a fertility specialist at the MUHC Reproductive Centre. For the appointment, please bring the following:
 - Lawyer's letter
 - Signed treatment consent form
 - Details of surrogate form
- ☐ Call the Nursing InfoLine when the above steps are completed. Your names will be given to the nurse responsible for planning your treatment.