

THESIS TITLE	PROVIDING PROTECTION FOR SURROGATED WOMEN AND CHILD ACCORDING TO THE LAWS ON PROTECTION OF THE CHILD BORN BY MEDICALLY ASSISTED REPRODUCTIVE TECHNOLOGY
KEYWORDS	SURROGACY/ CHILD BORN BY MEDICALLY ASSISTED REPRODUCTIVE TECHNOLOGY/ INSURANCE SYSTEM/ CHILD PROTECTION FUND
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ABSTRACT

This thesis studies the use of medically assisted reproductive technology in the case of other woman receiving surrogacy by using in vitro fertilization (IVF) method to obtain qualified embryos for embedding and then bring back into the uterus of a surrogate woman which such action may cause a surrogacy contract consisting of special conditions. Thailand enforces the Protection of a Child born by Medically Assisted Reproductive Technology Act, B.E. 2558 (2015) to treat an infertility situation for infertile people through legal operation. This Act is promulgated to provide the status of parents and legitimate child born by the use of medically assisted reproductive technology. However, this Act does not provide the appropriate protection for surrogate woman health and the sufficient rights of surrogate woman which may be infringed on sexual health and reproductive rights. Moreover, in the case that lawful husband and wife die before a birth of child, this Act only provides a surrogate woman being a temporary conservator until a new conservator is appointed. This situation causes a surrogate woman taking a burden beyond agreed in the contract. This thesis emphasizes the comparative study of relevant concepts, theories and rules of Thailand including foreign countries to search for appropriate guidelines used in developing and improving related provisions.

From the study and analysis of pattern and concept of laws regarding the protection of a child born by medically assisted reproductive technology discovered that there is no provision providing adequate protection for the health of surrogate woman. There are only provisions providing a surrogate woman should be a blood relative of lawful husband or wife, and in the case having no blood relative; a surrogate woman must have previously had a child only. In addition, this Act also provides rules, procedures and conditions regarding surrogacy agreement without determining a duration or form of operation, therefore, this causes a surrogate woman does not truly receive health protection.

Being conservator of a child in the case that lawful husband and wife die before a birth of child, this Act provides surrogate woman being a temporary conservator until a new conservator is appointed. In other words, this provision forces a surrogate woman to be a child supporter causing her taking a burden beyond agreed in the contract and other problems in child raising which directly affect a child in the future.

To be a guideline for solving such problems, the researcher, therefore, has the recommendations receiving from this study divided into two issues which are as follows: the first issue is that there should amend the provisions regarding the rules of providing protection to surrogate woman by requiring lawful husband and wife to make a health insurance for a surrogate woman and a child born from surrogacy so that a surrogate woman has the rights to fully receive medical treatment from the cost of insurance which is a truly giving health protection to a surrogate woman and in accordance with the intention of the Protection of a Child born by Medically Assisted Reproductive Technology Act, B.E. 2558 (2015), as well as providing protection to a child. The second issue is that there should amend the provisions in the case of lawful husband and wife intending to have a surrogacy die before a birth of child by prescribing the officer according to the child protection law being as a temporary conservator until appointing a child conservator is executed. Moreover, there should amend the provisions by providing lawful husband and wife intending to have a surrogacy have the duty to do their own life insurance to get protection during a surrogacy and a child is the beneficiary, as well as allowing the child protection fund under the child protection law taking responsibility of maintaining benefits and having the power to use money received from Life insurance in supporting a child as necessary and appropriate.

In the case of having an amendment of the provisions as mentioned in recommendations of the researcher, this may enhance more appropriate and greater legal protection for surrogate woman and child born by medically assisted reproductive technology which affects health and hygiene care, quality

of life development, social insurance system, including legal development causing social security in increasingly providing the rights protection to people.