



Establishing Parentage in Each Province*

In Canada, parental rights are determined by the laws of each Province. There are some variations in the method and timing of birth registration but in all cases pending the legal process for registration and obtaining birth certificates, the intended parents have physical custody of their newborn at birth. Where court orders are obtained to name the parents, the judicial order is made retroactively to the time of birth.

Foreigners who wish to keep the surrogate named as the mother on the birth certificate, should always confirm her willingness to do so as well as her willingness to sign any documents required in their home country. Where the surrogate is named as a parent on the birth certificate, she will need to assist with obtaining the passport and providing a travel consent letter.

All persons born on Canadian soil are deemed Canadian citizens automatically at birth. As such, they are entitled to a Canadian passport which may be applied for by the established parents. There must be a birth certificate to do so. In most large cities this can be obtained in one day (and sometimes less) pending proof of travel. International intended parents are advised to purchase flexible return plane tickets.

If the intended parents require both an ovum and sperm donor and will have no genetic link to the child, they can only establish parentage in two provinces: Ontario and British Columbia.

Ontario

- Two options: Statutory Declaration (administrative) or a court ordered Declaration of Parentage
- The Statutory Declaration cannot be signed by the surrogate until seven days post-birth, but the intended parents are considered the legal parents
- Court order documents can be signed and submitted immediately
- Up to four parents can be named
- The surrogate can stay on the birth certificate if required
- The birth certificates are usually received 2 weeks post birth
- International intended parents and their newborn can usually go home 2-2.5 weeks after the birth

British Columbia

- Two options: Statutory Declaration (administrative) or a court ordered Declaration of Parentage only if necessary
- The intended parents named in the surrogacy agreement must be registered on the birth certificate
- Up to six parents may be named
- The surrogate cannot be on the birth certificate
- The Statutory Declaration can be signed immediately
- The birth certificates usually received 1-2 weeks post birth
- International intended parents and their newborn can usually go home 2-3 weeks after the birth

Alberta

- Declaration of Parentage is done via court order
- The court order is obtained within 3-4 days naming the intended parents
- The surrogate can stay on the birth certificate if required
- There must be a genetic link to at least one of the intended parents. If only one of the parents will be listed on the birth certificate, that parent must have the genetic link
- international intended parents and their newborn can usually go home 3-4 weeks after the birth

New Brunswick

- Declaration of Parentage is done via court order
- If the surrogate is not married the Intended genetic father can be named as a parent as well
- If the surrogate is married her spouse will be listed on the initial birth certificate rather than the biological parent
- DNA is usually required
- An application is brought to the court to register the birth or amend the registration to have only the intended parents on the birth certificate
- At least one of the intended parents must have be genetically related to the child
- International intended parents and their newborn can usually go home 4-6 weeks after the birth
- Ontario residents can obtain a court order in Ontario ordering the registration in New Brunswick

Saskatchewan

- Declaration of Parentage is done via court order
- There must be a genetic link to at least one of the intended parents
- The surrogate is initially listed on the birth certificate
- If there are two intended fathers, both may go on the birth certificate with the surrogate
- An intended mother and father may go on the birth certificate with the surrogate, if it is the intended father who is genetically related to the child; if it is the intended mother who is the genetic parent, then they can not go on the birth certificate with the surrogate
- A single father who is genetically related to the child may go on the birth certificate with the surrogate
- A single mother, even though genetically related to the child cannot go on the initial birth certificate with the surrogate
- An application is brought to the court to amend the registration to remove the surrogate and name only the intended parents on the birth certificate
- The birth certificates are issued within 2 weeks post birth
- International intended parents and their newborn can usually go home 2 weeks after the birth
- Ontario residents can obtain a court order in Ontario ordering the registration in Saskatchewan

Nova Scotia

- Declaration of Parentage is done via court order
- The surrogate is initially listed on the birth certificate along with the Genetic Parent- this can take 2-3 weeks
- An Application is brought to the court to register the birth or amend the registration to have only the intended parents on the birth certificate- this can take another 1-2 weeks
- The new birth certificate will take another 2-3 weeks to obtain
- The surrogate can stay on the birth certificate if required and can be named alone
- There must be a genetic link to at least one intended parent
- International intended parents and their newborn can usually go home 2-3 weeks after the birth with the initial birth certificate and the surrogate's consent to travel

Prince Edward Island

- The surrogate is initially listed on the birth certificate
- An Application is brought to the court to declare that the intended parents are the only parents and remove the surrogate as the mother
- The order also directs that the registration be amended

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- The new birth certificate can be obtained within 1-2 months after the birth

Manitoba

- Initially the surrogate registers as the mother and if married, her husband must be on the birth certificate with her
- A court ordered Declaration of Parentage can be obtained removing them and naming the biological parent/s
- If she is single, she can name the non-biological father
- A court ordered Declaration of Parentage can be obtained removing her and naming the biological father
- A single mother or father who is genetically linked may be named
- Ontario residents can obtain a court order in Ontario ordering the registration in Manitoba regardless of their genetic link to the child

Quebec

- Surrogacy births may be registered in one of three ways: 1) the surrogate and the genetic father on the birth certificate; 2) the surrogate alone on the birth certificate or; 3) the genetic father alone on the birth certificate
- The other intended parent will have to adopt but foreigners cannot adopt
- International intended parents and their newborn can usually go home 4-6 weeks after the birth with permission from the surrogate to travel if she is on the birth certificate
- Ontario residents can obtain a court order in Ontario ordering the registration in Quebec

Newfoundland

- Declaration of Parentage is done via court order
- The surrogate is initially listed on the statement of live birth by the hospital and on the registration of birth
- An application is brought to the court to register the birth or amend the birth certificate to have only the intended parents on the birth certificate
- There must be a genetic link to at least one of the parents (there has not been an application made on behalf of intended parents without a genetic link)
- International intended parents and their newborn can usually go home 4-6 weeks after the birth

*Please note this is not provided as a substitute for proper legal advice but merely as a guide to assist agencies and intended parents with a brief overview of the birth registration process. Please feel free to contact Hope Springs Fertility Law™ for legal advice. The information within was created with gratitude to several contributors: Doreen Brown, Ellen Embury, Anne Fagan, Robynne Kazina, Jocelyn Léger-Nowlan, Sophie MacDonald, Marisha Paquin, Elise Schopper-Brigel and, Terry Sheppard