



## Advisory report 'Draft legislative proposal on children, surrogacy and legal parenthood', Council for the Administration of Criminal Justice and Protection of Juveniles

### Summary

*On 24 April 2020, the advisory department of the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ: Raad voor Strafrechtstoepassing en Jeugdbescherming) was requested to advise on the draft legislative proposal on children, surrogacy and legal parenthood. The aim of the legislation is to better protect the position of the parties involved. On 18 April 2020, the advice was offered to the Minister for Legal Protection.*

The Council strongly views legal regulations for surrogacy to be in the interest of all parties involved. The current draft legislative proposal provides a good basis for this. In its advice, the Council requests an explanation in particular for why certain requirements or premises were chosen.

For a child involved, the advice entails that:

- the information about the surrogate mother on the birth certificate should remain confidential;
- it must be clear under which circumstances and from when on the child should be able to consult the birth certificate with details of the surrogate mother, and how this can acknowledge the child's evolving capacities;
- any unnecessary obstacles to deciding to participate in the surrogacy arrangements are prevented for as far as possible;
- it becomes clear why judicial review is required and why mandatory notification is justified of any contraindications (in the report to the court) following from the mandatory information provision and counselling;
- it is understood why it has been decided that the premise is that at least one of the commissioning parents is genetically related to the child; why this can be deviated from, in which cases and under what conditions;
- the legal position of the child in the 'legal recognition of parenthood subsequent to surrogacy' arrangements is carefully considered and the arrangements are reconsidered in this regard;

- suitable measures are taken to counter commercial surrogacy and the purchase of children, with these measures being submitted together with this legislative proposal for comprehensive review by the House of Representatives;
- the position of parents who are still minors is dealt with in a separate legislative proposal.

*This advice can be consulted on the website of the Council for the Administration of Criminal Justice and Protection of Juveniles under the header Recommendations (Adviezen).*

