

Madame Chairman, Members of the Committee:

My name is Jackie Wakefield. I am a resident of Meridian, a mother, grandmother, and most importantly a child advocate for both the born and unborn. As a retired lawyer and one who was blessed to represent clients in a number of adoptions during my career, I OPPOSE this legislation for a number of reasons.

1. WHAT ABOUT THE ART CHILDREN? Contrary to the expressed purpose to protect the “welfare of children born”, it fails to protect the preborn and born children involved in the process.

- Some of the procedures involved in ART technology (assisted reproductive technology) result in embryos frozen, destroyed or subject to experimentation. Empirical principles of biology establish that human life begins when a female gamete and a male gamete fuse forming an embryo. This proposed legislation fails to address whether or not these immature human beings should be treated as biomedical waste or have legal protections or rights. Further it fails to prevent the demise of in-utero children who are no longer wanted, imperfect, or selectively reduced in a multiple pregnancy.
- Children resulting from ART technology are forced into unhealthy stresses of ambiguous or split origins, possibly conceived from one woman’s egg, gestated by another and raised by a third mother and maybe separated by their father by anonymous sperm donation. Does science support the concept that the mother and child bond during pregnancy and the newborn may suffer trauma from being separated from his/her birth mother? Does science acknowledge that just as with adopted children, surrogate children deal with the life-long desire of knowing where they came from and the desire to “find” their biological parents? Do these contracts provide for contact between carrier, the biological parents and IP after birth to prevent this trauma? If so, how will this contractual right be enforced against non-resident and foreign resident IPs? This proposed legislation is silent on these issues.
- According to UNICEF, “[c]hildren born through surrogacy, especially ISAs (International Surrogacy Arrangements), are at risk of multiple human rights violations-particularly, their right to an identity, including name, nationality, family relations and access to origins; the right to the enjoyment of the highest attainable standard of health; and the right not to be sold” “Given the predominantly commercial nature of many surrogacy arrangements, children born through surrogacy are at risk of being sold and/or exploited. Specific concerns are raised in this regard in ISAs and in surrogacy situations in which parentage is established solely on the basis of private arrangements.” unicef.org/media/115331/file This legislation has no provision to protect against

a foreign resident trafficking ART children. THE DESIRES OF ADULTS TO RAISE A CHILD SHOULD NOT SUPERSEDE THE RIGHTS AND NEEDS OF CHILDREN.

2. WHAT ABOUT THE HEALTH OF THE CARRIER AND ART CHILD? The legislation fails to protect the gestational carrier and infants from adverse effects. According to the CDC:

- “Women who undergo ART procedures are more likely than women who conceived naturally to have multiple births because multiple embryos may be transferred”
- “Multiple births can pose substantial risks for both mothers and infants, including obstetric complications, preterm birth and low birthweight.”
- ART-conceived infants “contributed to greater than 10% of all twins, triplets and higher-order infants born in the United States”
- “While risks to mothers from multiple-birth pregnancy include higher rates of caesarean delivery, gestational hypertension, and gestational diabetes, infants from multiple births are at increased risk for numerous adverse sequelae such as preterm births, birth defects, and developmental disabilities”
- “In our [CDC] study of more than 4 million infants, we found that singleton infants conceived using ART were 40% more likely to have a nonchromosomal birth defect (such as cleft lip and/or palate or a congenital heart defect) compared with all other singleton births. However, because this study did not account for some factors related to infertility that might explain the observed increases in risk for birth defects, more research is needed to clearly answer this question”
- “Overall, children conceived using ART were about two times more likely to be diagnosed with ADS (autism spectrum disorder) compared to children conceived without using ART.”

3. WHY AREN'T SURROGATE CHILDREN PROVIDED LEGAL PROTECTIONS AT LEAST EQUAL TO THOSE PROVIDED IN TRADITIONAL ADOPTIONS?

- It treats the legal change in parentage of surrogate children differently than natural born children.
- Idaho Code Section 16-1506 requires the prospective parent to reside and dwell within Idaho for 6 consecutive months, Idaho Code Section 17-1605 only requires that someone in the transaction have sufficient “contacts” with the state, whatever that means.
- At the only hearing held, only the validity of the agreement is addressed, the primary focus being “reasonable health care expenses” and whether the “consideration” received by the carrier “is reasonable”, while an adoption (Idaho Code Section 16-1506(4) requires “a thorough social investigation of the

prospective adoptive family and all of its members, a positive recommendation for adoptive placement.

- Addressing compensation, Idaho Code Section 18-1511 prohibits the sale or barter of children, in fact this statute, and the process suggests commercialization - the only limitation on the dollar exchange, (Idaho Code Section 17-1605(4)(d) "consideration" is that it is "reasonable" in the mind of the judge. For adoption the only lawful amounts are: "legal and medical costs, reasonable maternity and living expenses during the pregnancy and for a period not to exceed 6 week postpartum based upon demonstrated financial need, financial assistance of less than \$500 and no more than \$2,000 unless a verified financial plan outlining proposed expenditures is submitted and approved by the court. Why is a carrier treated differently than a biological mother?
- NO provisions were included dealing with the child produced through ART technology and the child's potential future needs and issues. The only provision included in Idaho Code Section 17-1612 regarding the ART child is the possibility that it may obtain medical information about his/her donor parent if provided in the agreement. No opportunity to make contact with his/her gamete donor is authorized, unlike the opportunity provided to adoptive children and their biological mother upon mutual consent.
- There is no state regulation or supervision of the industry provided for in this legislation. There is no statistical data gathered to monitor this industry. There is no governmental entity charged with monitoring the industry to insure compliance with our law regarding abortion. Embryos from ART technology are frozen, destroyed and used for experimentation involving stem cell research. Oftentimes where ART is performed, multiple children are successfully produced in the womb resulting in the aborting of a child or children, either by election or necessity.

4. WHY SHOULD THIS INDUSTRY INVOLVING CHILDREN BE UNREGULATED?

This legislation acknowledging and legitimizing ART technology in Idaho, has been described as an "industry" by its sponsor, but has not been scientifically or ethically vetted in Idaho. According to testimony provided before the House Health and Welfare Committee, there are approximately 10 Idaho resident "surrogacies" and 100 non-resident (foreign or domestic) "surrogacies" on average per year.

5. WHY SHOULD IDAHO LEGITIMIZE AND PROMOTE SURROGACY WHEN OTHER COUNTRIES ARE BANNING THE INDUSTRY?

Most European nations have banned surrogacy due to widespread abuse and exploitation, particularly of poor women hired as surrogates. In fact, many nations that became popular as "reproductive

tourism" destinations have banned it as well, including India, Cambodia, Thailand and Mexico. www.hill.org/author/bc/lowes/ Nov.19, 2021

6. HOW DOES THIS "INDUSTRY" IMPACT HEALTHCARE AVAILABILITY AND COSTS FOR IDAHOANS? According to the CDC, "[f]ertility, both ART and non-ART, contribute substantially to preterm birth, which is a leading cause of infant morbidity and mortality (footnote omitted). The health risks associated with preterm birth have contributed to increased health care costs. In 2016, the societal economic cost associated with one infant born preterm in the United States was estimated at \$64,815 (footnote omitted), which translates into approximately \$1.3 billion for 19,511 ART-conceived infants born preterm in 2018." Therefore, of the 100 non-resident surrogacies, it is unknown how many surrogacies resulted in preterm births contributing to increased demands on neonatal facilities and health care costs in Idaho.

7. I am not sure how the adoption cases are assigned in Ada County, if one judge hears all the ART cases or whether they are assigned in a rotating fashion. If it is only one judge, that judge determines whether a party to the agreement has had sufficient contacts for Idaho jurisdiction, the same judge determines whether the consideration paid to the carrier is reasonable, without any statutory guidelines or public oversight as the case information and hearings are not open to the public and sealed after the final order is issued.

18-601. INTERPRETATION OF STATE STATUTES AND THE STATE CONSTITUTION. The supreme court of the United States having held in the case of "Planned Parenthood v. Casey" that the states have a "profound interest" in preserving the life of preborn children, Idaho hereby expresses the fundamental importance of that "profound interest" and it is hereby declared to be the public policy of this state that all state statutes, rules and constitutional provisions shall be interpreted to prefer, by all legal means, live childbirth over abortion.

HeartBeat Bill

18-8802. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that:

(1) The life of each human being begins at fertilization, and preborn children have interests in life, health, and well-being that should be protected.

(8) Therefore, the state of Idaho has a compelling interest in protecting the life of a preborn child at all stages of its development . . .

March 13, 2023

To Senators of the Idaho Senate Health & Welfare Committee,

HB264 is representative of an "tourism industry" in Idaho that is totally unregulated and is sorely in need of a study committee to consider all the ramifications of the effect on life and families in our beautiful state.

This legislation acknowledging and legitimizing "assisted reproductive technology - ART" in Idaho has been described as an "industry" by its sponsor, but has not been scientifically or ethically vetted in Idaho. For instance, did you know:

There are 10 or 11 Surrogacy Centers in Boise and Meridian? Google for "surrogacy centers, Boise" and watch them pop up!

- That a Docu-Drama was released in 2019 entitled "**MADE IN BOISE**"? From the DVD jacket:
 - "In the idyllic city of Boise, nurses, nail technicians, and stay-at-home mothers are choosing to become paid surrogates for people from around the world. "MADE IN BOISE" offers a rare glimpse into this mysterious world by intimately following the lives of four surrogates ... Legal in some states and illegal in others, a number of states, including **Idaho, have no laws governing surrogacy on their books at all** ... Boise has become an epicenters of the movement In this 'City of Trees' with a population of a little over 200,000, it is estimated that one in 15 mother will carry a baby for a stranger at some point in her life ... this industry is outlawed in many countries around the world...."
- More movies and videos from the Center for Bioethics and Culture:
 - "**Eggsplottation**", dated 2021 - "The infertility industry in the United States has grown to a multi-billion dollar business. What is its main commodity? Human eggs. Young women all over the world are solicited by ads—via college campus bulletin boards, social media, online classifieds—offering up to \$100,000 for their "donated" eggs, to "help make someone's dream come true." But who is this egg donor? Is she treated justly? What are the short- and long-term risks to her health? The answers to these questions will disturb you . . ."
 - "**Breeders: A Subclass of Women?**" - also from 2021 - "a look at the world of surrogate mothers to understand whether it is a loving, giving act, or simply degrades the concept of pregnancy, making the process of bringing a life into the world a service and the baby a product."
 - "**#BIGFERTILITY, It's All About the Money**" - 2018 - A young woman, Kelly Martinez, served as a surrogate mother for three different couples and was threatened with financial ruin after nearly dying during her third surrogacy. But each of her surrogacy journeys had a price to pay. Kelly's story exemplifies everything that is wrong with the distorted version of fertility medicine that is #BigFertility. It truly is all about the money."
- From the Heritage Foundation in 2021 - "**How Surrogacy Harms Women and Children**" - The international surrogacy market appears to have significant and growing overlap with human trafficking."

Finally, have any of us been aware an American surrogate mother named Brooke Lee Browne passed away in 2015 at St. Luke's Regional Medical Center in Boise, eight days before her 35th birthday, from complications related to her third surrogacy pregnancy. - <https://www.legalizesurrogacywhynot.com/brooke-brown-story> —?

Please make a motion and/or vote to table this bill until the issue can be studied to consider how it affects women, children, families in Idaho.

If it is not tabled, and comes to a vote, please vote against this bill. I urge you NOT to send it to the floor of the Senate.

Thank you.

Karen Simkins
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In 2019, Ph.D. student Steve Jacobs wrote an article called, "I Asked Thousands of Biologists When Life Begins. The Answer Wasn't Popular." Result: 5,337 biologists, or 96 percent of the survey affirmed that a human's life begins at fertilization. Sidenote: 85% of the respondents identified as pro-choice.

Often called snowflake babies, the tiniest humans created using ART are SUBJECTS not OBJECTS. Sadly, in the INDUSTRY they are treated as property...in a divorce case it falls under property law...

I recently listened to a conversation by three doctors that are part of the Catholic Medical association, this 50 min conversation can be heard at doctordoctor.org/episode265/

Would you kill six of your children so that one could live? This bill is bringing up a lot of questions for me about the rights of the unborn and I know that the purpose of our laws and our democracy are to protect those that are too weak to protect themselves. Some of my questions are...how many frozen embryos/snowflake babies do we have in our state? my county of Ada County? and my city of Meridian? What laws are in place overseeing these ARTs or are we allowed free reign to play God? How many clinics are using PGD? Do you know what PGD is?

PGD is Preimplantation Genetic Diagnoses? It is taking a genetic sample of the snowflake baby (so clearly the baby is developed enough that taking a biopsy will not cause its demise) and testing it for things like Cystic Fibrosis or gender. I recently heard that celebrity Paris Hilton has 20 frozen boys and will do another round of IVF to try for a girl. This is a sad reality of this industry. This is literally Eugenics. "Eu " meaning- "good" genes. 10 years ago 5% underwent this, a year ago this number was close to 50%.

As you may have gathered, I consider myself pro-life. I know that children are one's of life greatest gifts and my heart breaks for those that struggle with infertility. But I also know that the emotional and the rational part of the brain are two different areas and they cannot both be used at the same time. So with compassion and logic we see that a beautiful end cannot justify an unjust means. To illustrate this point let's look at marriage in China. Due to the eugenic practice of gender selected abortion. China now has 43million more marriageable men than women. That is the population of Canada. Naturally, these men want the companionship and shelter that marriage provides for the storms of life. But it would be wrong for a man to coerce a woman into marriage even though marriage is a good and beautiful thing.

Let me point out that infertile couples are not left without options! RRM (Restorative Reproductive Medicine) can work many times better than IVF! Here is a link to a study showing the pros and cons of RRM and how it succeeded in cases when IVF fails <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6079215/> Please look into this. There are fewer birth defects and less preterm deliveries using this natural method where the cause of infertility is healed. I've heard that 50% of the couples doing IVF have a diagnosis of infertility, unspecified. Whereas with RRM's such as NaPro (Natural Procreation Technology) though it may not always be treatable it is less than 5% of couples where they cannot identify the cause of infertility.

The means in IVF and surrogacy do not justify the end and could lead to abuses of not just the unborn children, but as well as to the surrogate mother. I voice opposition to HB 264 because I believe there should be more protections (which some may call restrictions) for the unborn and the surrogates not less and that we might just need more information surrounding this "industry" where babies are treated as a commodity in a lucrative market rather than the tiny humans with their own inherent worth. Thank you.

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