

119TH CONGRESS
1ST SESSION

S. _____

To prevent citizens of foreign adversarial nations from entering into or
enforcing surrogacy contracts in the United States.

IN THE SENATE OF THE UNITED STATES

Mr. SCOTT of Florida introduced the following bill; which was read twice and
referred to the Committee on _____

A BILL

To prevent citizens of foreign adversarial nations from enter-
ing into or enforcing surrogacy contracts in the United
States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Adversarial
5 Foreign Exploitation of Kids In Domestic Surrogacy Act”
6 or the “SAFE KIDS Act”.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds the following:

1 (1) Citizens of foreign entities of concern are
2 exploiting commercial surrogacy laws in the United
3 States.

4 (2) Many developed countries ban international
5 commercial surrogacy altogether. The United States,
6 however, presently allows even citizens of foreign en-
7 tities of concern to solicit and pay financially-dis-
8 tressed Americans to give birth to their children in
9 the United States and then send these infants
10 abroad.

11 (3) This presents an acute national security
12 threat, and recent events in Arcadia, California re-
13 veal that surrogacy is even being used to facilitate
14 human trafficking.

15 (b) PURPOSES.—This Act—

16 (1) acknowledges that foreign persons (includ-
17 ing nationals of foreign entities of concern) are
18 abusing surrogacy agreements to exploit women in
19 the United States and to obtain United States citi-
20 zenship for their children;

21 (2) invalidates surrogate parentage contracts
22 between prospective parents from foreign entities of
23 concern and a surrogate mother in the United
24 States; and

1 (3) imposes criminal penalties on surrogacy
2 brokers who commercially facilitate such invalid
3 agreements.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) FOREIGN ENTITY OF CONCERN.—The term
7 “foreign entity of concern” means any foreign nation
8 listed under section 4872(f)(2) of title 10, United
9 States Code.

10 (2) PROSPECTIVE PARENT.—The term “pro-
11 spective parent” means an individual who, directly
12 or indirectly, enters into a surrogacy agreement to
13 become the legal or custodial parent of a child
14 birthed by a surrogate parent.

15 (3) SURROGACY AGREEMENT.—

16 (A) IN GENERAL.—The term “surrogacy
17 agreement” means a contract, agreement, or ar-
18 rangement, without regard to whether it is oral
19 or written or is direct or brokered, between 1
20 or more prospective parents and a surrogate
21 parent, under which the surrogate parent
22 agrees to become pregnant and give birth to a
23 child, and, subject to subparagraph (B), to re-
24 linquish all parental rights and responsibilities
25 to the prospective parent or parents.

1 (B) PRESUMPTION.—With respect to a
2 contract, agreement, or arrangement, without
3 regard to whether it is oral or written or is di-
4 rect or brokered, under which a surrogate par-
5 ent agrees to become pregnant and give birth to
6 a child that does not expressly addressing pa-
7 rental or custodial rights, there shall be a pre-
8 sumption that the surrogate parent has agreed
9 to relinquish her parental or custodial rights,
10 and that the contract, agreement, or arrange-
11 ment is a surrogacy agreement, if the contract,
12 agreement, or arrangement is with a prospec-
13 tive parent who is a citizen or permanent resi-
14 dent of a foreign entity of concern.

15 (4) SURROGACY BROKER.—The term
16 “surrogacy broker” means any individual or entity
17 that induces, arranges, procures, facilitates, or oth-
18 erwise assists in the formation or execution of a
19 surrogacy agreement.

20 (5) SURROGATE PARENT.—The term “surro-
21 gate parent” means a person who agrees to become
22 pregnant and give birth to a child, and to relinquish
23 all parental rights and responsibilities to another
24 person under the terms of a surrogacy agreement.

1 **SEC. 4. CERTAIN INTERNATIONAL SURROGATE PARENT-**
2 **AGE CONTRACTS VOID AND UNENFORCE-**
3 **ABLE.**

4 (a) IN GENERAL.—Subject to subsection (b), a
5 surrogacy agreement shall be void and unenforceable if the
6 agreement is between a surrogate parent who is in the
7 United States at the time of birth or who is a citizen or
8 lawful permanent resident of the United States and—

9 (1) a prospective parent who is a citizen or per-
10 manent resident of a foreign entity of concern; or

11 (2) a surrogacy broker who arranges a
12 surrogacy agreement with a prospective parent who
13 is a citizen or permanent resident of a foreign entity
14 of concern.

15 (b) EXCEPTION.—Subsection (a) shall not invalidate
16 a surrogacy agreement between a surrogate parent and
17 2 prospective parents, if—

18 (1) the 2 prospective parents are legally mar-
19 ried; and

20 (2) at least 1 prospective parent is a citizen or
21 lawful permanent resident of the United States.

22 **SEC. 5. COMMERCIAL FACILITATION OF FOREIGN**
23 **SURROGACY PROHIBITED; PENALTY.**

24 A surrogacy broker who knowingly or recklessly in-
25 duces, arranges, procures, facilitates, or otherwise assists
26 in the formation or execution of a surrogacy agreement

1 that is void and unenforceable under section 4 shall be
2 fined under title 18, United States Code, imprisoned for
3 not more than 1 year, or both.

4 **SEC. 6. CUSTODY OF CHILD WHEN INTERNATIONAL SURRO-**
5 **GATE PARENTAGE CONTRACTS ARE VOID**
6 **AND UNENFORCEABLE.**

7 Legal custody of a child born pursuant to a surrogacy
8 agreement that is void and unenforceable under section
9 4 shall be decided based on a determination of the best
10 interests of the child under the law of the State where
11 the surrogate parent resides, with no effect given to the
12 surrogacy agreement or any other purported agreement,
13 contract, or understanding concerning the custody of the
14 child.