Avoid international surrogacy, says expert in wake of B.C. couple's fight for twins

Law professor Karen Busby says international surrogacy is fraught with complications and exploits women abroad

By The Early Edition, CBC News

Greg and Elaine Smith of Maple Ridge, B.C., are facing mounting medical bills and a complicated bureaucratic system after their twins were born prematurely by surrogate in Mexico.

- Greg and Elaine Smith fight to bring surrogate-born twins home from Mexico

University of Manitoba law professor Karen Busby says international surrogacy is a complicated process, and one she doesn't recommend.

For parents who do decide to use an international surrogate, here are three things Busby says they should do before starting the process:

1. Know the rules for international surrogacy

Busby says paid surrogacy in Mexico is a recent development — something that has emerged in the last three years — and that means there isn't much clarity when it comes to the law.

"The rules probably aren't clear in Mexico about how exactly you transfer parentage from the birth mother, who is presumed to be the mother, to the intended parents," Busby told The Early Edition's Rick Cluff.

"Until that happens, you can't even begin to process with Canadian authorities how you get a passport for the child."

Citizenship and Immigration Canada outlines a number of rules for using an international surrogate, with requirements before parents can bring the child back to Canada.

That includes a birth certificate with the name of the intended parents, and an established genetic link.

- Greg and Elaine Smith issued birth certificates for surrogate-born twins

CBC News learned Wednesday that the Smiths have obtained birth certificates for the twins, but they still need to apply for Canadian passports for the babies, who were born Jan. 8 and remain at Hospital Angeles in Villahermosa.

"These things are going to take time," said Busby.

2. Buy health insurance

Busby said it's important to remember the Canadian health-care system doesn't provide coverage for anyone when they're outside of the country.
Surrogacy insurance can be expensive — Busby said in the U.S. it can cost $60,000 for twins — but that cost is worth the peace of mind.

"You have to expect complications for multiple births, both for the mothers and for the babies. Sixty per cent of twins are born prematurely, so you can expect problems," she said.

"That's what the parents should have done in this case. They should have got health care insurance in the event of complications for the premature birth of their children."

3. Know the health of the surrogate mother

Busby said if a couple does decide to go with international surrogacy, it's important for them to know about the health of the surrogate mother, which can be a challenge in itself.

"I think international surrogacy is a really problematic practice because it exploits women, and you just don't know what's going to happen to those women in the course of their pregnancy," she said. "There's so much uncertainty, and there's so many problems that you can run into, that I wouldn't recommend international surrogacy at all."

Busby said one of the problems is while surrogacy is legal in Canada, it's illegal to pay someone for being a surrogate mother. While Busby said some Canadian women are paid — illegally — to carry a surrogate baby, the laws make it difficult to find someone who is willing to do it without being fully compensated.

Busby would like to see laws change allowing Canadian surrogate mothers to be paid for their time and trouble.

"Of course, if you give birth to a child in Canada, that child is entitled to care in the Canadian system."

To hear the full interview with Karen Busby, click the audio labelled: Surrogate mothers and the law