

STANDING COMMITTEE ON LEGISLATION

*Fortieth Report — “Human Reproductive Technology
and Surrogacy Legislation Amendment Bill 2018” — Tabling*

HON DR SALLY TALBOT (South West) [9.13 am]: I am directed to present the fortieth report of the Standing Committee on Legislation titled “Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018”.

[See paper 2835.]

Hon Dr SALLY TALBOT: The report I have just tabled advises the house of the committee’s findings and recommendations regarding the Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018. The house referred the bill to the committee with the power to inquire into policy. The stated policy of the bill is to provide equitable access to surrogacy through the use of assisted reproductive technology for male same-sex couples and single men and to enable licensed fertility clinics and practitioners to provide such services without discrimination on the basis of sex and sexual orientation, in compliance with the commonwealth Sex Discrimination Act 1984 and the Western Australian Equal Opportunity Act 1984. To achieve this policy, the bill proposes to amend the Human Reproductive Technology Act 1991 and the Surrogacy Act 2008 to extend access to altruistic surrogacy arrangements through in-vitro fertilisation procedures to male couples and single men. The bill also clarifies that IVF procedures generally are available in circumstances of likely future infertility due to medical reasons; strengthens some of the advisory, investigation and search powers in relation to surrogacy regulation; and makes minor corrections and consequential amendments to the Human Reproductive Technology Act.

Advice provided to the committee indicates that the current prohibition on male couples and single men accessing IVF procedures is inconsistent with the commonwealth Sex Discrimination Act. Conversely, although the Surrogacy Act is discriminatory against male couples and single men, the evidence indicates that the discrimination is unlikely to be unlawful and therefore not strictly inconsistent with the SDA. Nevertheless, the committee considers that if male couples and single men have access to IVF for the purpose of surrogacy, it is necessary also to address the discrimination present in the Surrogacy Act.

The inquiry revealed numerous additional issues, including other issues arising from the current regulatory regime that are related to but are not addressed by the bill, and issues that arise from the amendments proposed by the bill that will, in particular, give rise to new areas of discrimination against women accessing IVF procedures and surrogacy and diminish the existing rights of female couples seeking to access surrogacy and associated IVF procedures.

The inquiry also raised other matters relevant to the bill that, due to the inquiry’s constraints, the committee has not considered in detail. These matters are summarised in the report. The committee has made findings and recommendations to clarify the operation of the current act and improve the operation of the bill if passed. I commend the report to the house.