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—Allen H. Neuharth  
Chairman and Founder  
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John C. Quinn  
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# OPINION

## The Debate: BATTLE FOR BABY M

Today's debate includes our opinion that surrogate motherhood cannot be banned, but states must pass laws regulating such arrangements, an opposing view from the District of Columbia, other views from Georgia, Illinois, and New York, and voices from across the USA.

### ANTHONY D'AMATO

Guest columnist

## Legislatures, courts should butt out

CHICAGO — Everyone has a solution to the Baby M controversy. Not just an opinion, but a solution. Most solutions call for new legislation and regulation. Most people think "there ought to be a law."

I don't. We have no surrogate motherhood laws in Illinois, and we're doing just fine.

We in the USA have a love-hate relationship about law. We push for legislation, then complain about overregulation and red tape. Who can read the tax code — even the new "simplified" one? What this country needs is a lot less law.

The worst time to pass new laws is when a rapidly developing technology combines with deeply felt human needs. Surrogate motherhood is a case in point. Consider:

A new state law outlaws surrogate motherhood, but a relative may want to be a surrogate mother out of love for her kin who are childless. Should such

people go to prison?

All right, you say, just outlaw surrogate motherhood for hire. But now that the technology is here, money will simply pass under the table. Should the ones who are caught be arrested as criminals?

Well, what about making it a crime to pay a surrogate mother more than \$10,000? Why? The more money that's paid, the more the infant is valued, and the more it is valued, the more it will be loved. Should excess love be criminalized?

My solution — and I have one, like everybody else — is to pass no law. And unlike the judge in the Baby M case, I think surrogate contracts should *not* be legally valid. For as soon as you have a contract, you have lawyers, lawsuits, and heartaches (when I said this recently on a Wisconsin radio show, a listener called in to say that I didn't sound like any lawyer she ever heard of!).

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In the absence of legal regulation, a would-be father will place a cash deposit with a surrogate motherhood agency. The agency will go to its list of mother-applicants — women who can really use the money and who want to do something good for a childless family. But since under my plan there is no enforceable contract, when the baby is born the surrogate mother can decide to keep it and forfeit the deposited money.

No sheriff can snatch it away from her. She gets the money only if she decides to hand the child over to the biological father. The infant winds up in whichever family wants it the most. No lawsuits, no legislation, no criminals, just a miracle coming into the world — a new, wanted child.