

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 591 (Senator Jacobs)
Judicial Proceedings

Family Law - In Vitro Fertilization - Parental Rights

This bill provides that a child born through in vitro fertilization using a donated embryo will be considered the same as a naturally conceived child of the woman in whom the embryo was implanted and her husband, if she is married. Embryo donors are not considered the child's parents. All the embryo donor's parental rights will be terminated in accordance with a written agreement executed before the embryo is implanted. Procedural adoption requirements do not apply to the parents of a child conceived through in vitro fertilization.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: None applicable in Maryland statute or case law.

Background: In a July 2003 California case, *Robert B. v. Susan B.*, a woman was implanted with an embryo intended for another woman. The embryo was formed using an anonymous donor egg and the sperm of the other woman's husband. The husband's sperm was supposed to be reserved exclusively for creating embryos for the couple. When the error was discovered, the couple sued the woman who received the embryo for

parental rights, despite the fact that the woman had a contract to receive an anonymously donated embryo. The court determined that the implanted woman was the mother of the child and the man from the couple was the father of the child. The court awarded visitation rights to the man. The court rejected the claim to parental rights by the woman of the couple.

Florida law requires an egg, sperm, or preembryo donor, other than the commissioning couple or father in an adoption agreement, to relinquish their maternal or parental rights and obligations related to the donation and any children that result from the donation.

Oklahoma law requires that any child or children born of a donated egg must be considered for legal intents and purposes the same as a naturally conceived legitimate child of the husband and wife who consent to and use the donation.

Infertility affects approximately 6.1 million women and their partners in the United States, approximately 10% of the reproductive population. Fewer than 5% of infertile couples in treatment use in vitro fertilization.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources; National Conference of State Legislatures; American Society for Reproductive Medicine; University of Maryland, School of Law; Department of Legislative Services

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ncs/hlb

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