



MARYLAND STATE BAR FAMILY AND JUVENILE LAW SECTION COUNCIL TESTIMONY IN SUPPORT OF HOUSE BILL 96

(Family Law – Parentage and Adoption - Definitions)

January 23, 2020

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

On behalf of the FJLSC, I support HB 96 and urge the House Judiciary Committee to issue a favorable report.

Legal Background:

Currently, Maryland Law Family Law Article § 5-1001 defines a mother as an individual, regardless of gender, who gives birth to a child unless parentage is otherwise established and it defines a gamete donor as an individual who provides sperm (a sperm donor) or an ovum (an egg donor), but not an embryo (sperm and egg).

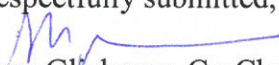
Need for Change

The current law needs to be changed because the definitions are outdated. Currently, an embryo can also be donated, however there is no language within the statute that recognizes that an embryo may also be donated without creating a parenting relationship. Frequently couples who freeze embryos who decide not to use them will donate them rather than having them destroyed. This is fairly recent technology that is not contemplated by the current statute.

Further, the proposed change to the definition of mother would not exclude a gamete donor who is in a relationship with, or married to, the mother (the woman who physically gives birth). For example, if a wife in a same sex marriage donates an egg to be carried by her wife, pursuant to the current law, the wife who donated the egg is not considered a parent, but rather a donor. The proposed expansion of the language regarding a “gamete donor” and a “mother” would prevent the wife who gave birth from later claiming that the spouse, or the woman with whom she is in a relationship, has no legal rights because she is only a gamete donor. It also prevents any governmental agency from excluding the donor as a spouse and allows the child to then be recognized as a child of both parties.

The FJLSC urges the House Judiciary Committee to issue a favorable report on HB 96.

Respectfully submitted,


Ilene Glickman, Co-Chair Legislative Committee
Family and Juvenile Law Section Council
MSBA