

AMENDED IN SENATE MARCH 13, 2013

**SENATE BILL**

**No. 115**

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**Introduced by Senator Hill**

January 16, 2013

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An act to amend Section ~~125290.40~~ of the ~~Health and Safety~~ 7630 of the Family Code, relating to ~~stem cell research~~ parent and child relationship.

LEGISLATIVE COUNSEL'S DIGEST

SB 115, as amended, Hill. ~~Stem cell research: Independent Citizen's Oversight Committee.~~ Parent and child relationship.

Existing law, the Uniform Parentage Act, sets forth the circumstances under which a man may be presumed to be the natural father of a child. Under existing law, those circumstances include if he receives the child into his home and openly holds out the child as his natural child and if the child is in utero after the father's death and specified conditions applicable with respect to determining rights to the property to be distributed upon the death of the decedent are satisfied. Existing law authorizes any interested party to bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship that is presumed under those circumstances. The Uniform Parentage Act also provides that the donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in artificial insemination or in vitro fertilization of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived, unless otherwise agreed to in a writing signed by the donor and the woman prior to the conception of the child.

*This bill would instead provide that notwithstanding the treatment in law of the sperm donor under those circumstance, any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under the previously described circumstances.*

~~The California Stem Cell Research and Cures Act, an initiative measure approved by the voters at the November 2, 2004, statewide general election as Proposition 71, establishes the California Institute for Regenerative Medicine, the purpose of which is, among other things, to make grants and loans for stem cell research. Existing law establishes the Independent Citizen's Oversight Committee (ICOC), which is required to perform various functions and duties with regard to the operation of the institute. Existing law authorizes the ICOC to annually modify its funding and finance programs to optimize the institute's ability to achieve the objective that its activities be revenue-positive for the state during its first 5 years of operation without jeopardizing the progress of its core medical and scientific research program.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7630 of the Family Code is amended to  
2     read:

3     7630. (a) A child, the child's natural mother, a man presumed  
4     to be the child's father under subdivision (a), (b), or (c) of Section  
5     7611, an adoption agency to whom the child has been relinquished,  
6     or a prospective adoptive parent of the child may bring an action  
7     as follows:

8     (1) At any time for the purpose of declaring the existence of the  
9     father and child relationship presumed under subdivision (a), (b),  
10    or (c) of Section 7611.

11    (2) For the purpose of declaring the nonexistence of the father  
12    and child relationship presumed under subdivision (a), (b), or (c)  
13    of Section 7611 only if the action is brought within a reasonable  
14    time after obtaining knowledge of relevant facts. After the  
15    presumption has been rebutted, paternity of the child by another  
16    man may be determined in the same action, if he has been made  
17    a party.

1 (b) ~~Any~~ *Notwithstanding subdivision (b) of Section 7613, any*  
2 interested party may bring an action at any time for the purpose  
3 of determining the existence or nonexistence of the father and child  
4 relationship presumed under subdivision (d) or (f) of Section 7611.

5 (c) Except as to cases coming within Chapter 1 (commencing  
6 with Section 7540) of Part 2, an action to determine the existence  
7 of the father and child relationship may be brought by the child or  
8 personal representative of the child, the Department of Child  
9 Support Services, the mother or the personal representative or a  
10 parent of the mother if the mother has died or is a minor, a man  
11 alleged or alleging himself to be the father, or the personal  
12 representative or a parent of the alleged father if the alleged father  
13 has died or is a minor.

14 (d) (1) If a proceeding has been filed under Chapter 2  
15 (commencing with Section 7820) of Part 4, an action under  
16 subdivision (a) or (b) shall be consolidated with that proceeding.  
17 The parental rights of the presumed father shall be determined as  
18 set forth in Sections 7820 to 7829, inclusive.

19 (2) If a proceeding pursuant to Section 7662 has been filed under  
20 Chapter 5 (commencing with Section 7660), an action under  
21 subdivision (c) shall be consolidated with that proceeding. The  
22 parental rights of the alleged natural father shall be determined as  
23 set forth in Section 7664.

24 (3) The consolidated action under paragraph (1) or (2) shall be  
25 heard in the court in which the proceeding under Section 7662 or  
26 Chapter 2 (commencing with Section 7820) of Part 4 is filed, unless  
27 the court finds, by clear and convincing evidence, that transferring  
28 the action to the other court poses a substantial hardship to the  
29 petitioner. Mere inconvenience does not constitute a sufficient  
30 basis for a finding of substantial hardship. If the court determines  
31 there is a substantial hardship, the consolidated action shall be  
32 heard in the court in which the paternity action is filed.

33 (e) (1) If any prospective adoptive parent who has physical  
34 custody of the child, or any licensed California adoption agency  
35 that has legal custody of the child, has not been joined as a party  
36 to an action to determine the existence of a father and child  
37 relationship under subdivision (a), (b), or (c), or an action for  
38 custody by the alleged natural father, the court shall join the  
39 prospective adoptive parent or licensed California adoption agency  
40 as a party upon application or on its own motion, without the

1 necessity of a motion for joinder. A joined party shall not be  
2 required to pay a fee in connection with this action.

3 (2) If a man brings an action to determine paternity and custody  
4 of a child who he has reason to believe is in the physical or legal  
5 custody of an adoption agency, or of one or more persons other  
6 than the child’s mother who are prospective adoptive parents, he  
7 shall serve his entire pleading on, and give notice of all proceedings  
8 to, the adoption agency or the prospective adoptive parents, or  
9 both.

10 (f) A party to an assisted reproduction agreement may bring an  
11 action at any time to establish a parent and child relationship  
12 consistent with the intent expressed in that assisted reproduction  
13 agreement.

14 (g) (1) In an action to determine the existence of the father and  
15 child relationship brought pursuant to subdivision (b), if the child’s  
16 other parent has died and there are no existing court orders or  
17 pending court actions involving custody or guardianship of the  
18 child, then the persons having physical custody of the child shall  
19 be served with notice of the proceeding at least 15 days prior to  
20 the hearing, either by mail or in any manner authorized by the  
21 court. If any person identified as having physical custody of the  
22 child cannot be located, the court shall prescribe the manner of  
23 giving notice.

24 (2) If known to the person bringing the parentage action,  
25 relatives within the second degree of the child shall be given notice  
26 of the proceeding at least 15 days prior to the hearing, either by  
27 mail or in any manner authorized by the court. If a person identified  
28 as a relative of the second degree of the child cannot be located,  
29 or his or her whereabouts are unknown or cannot be ascertained,  
30 the court shall prescribe the manner of giving notice, or shall  
31 dispense with giving notice to that person.

32 (3) Proof of notice pursuant to this subdivision shall be filed  
33 with the court before the proceeding to determine the existence of  
34 the father and child relationship is heard.

35 ~~SECTION 1. Section 125290.40 of the Health and Safety Code~~  
36 ~~is amended to read:~~

37 ~~125290.40. ICOC Functions~~

38 ~~The ICOC shall perform the following functions:~~

39 ~~(a) Oversee the operations of the institute.~~

- 1 ~~(b) Develop annual and long-term strategic research and~~  
2 ~~financial plans for the institute.~~
- 3 ~~(c) Make final decisions on research standards and grant awards~~  
4 ~~in California.~~
- 5 ~~(d) Ensure the completion of an annual financial audit of the~~  
6 ~~institute's operations.~~
- 7 ~~(e) Issue public reports on the activities of the institute.~~
- 8 ~~(f) Establish policies regarding intellectual property rights~~  
9 ~~arising from research funded by the institute.~~
- 10 ~~(g) Establish rules and guidelines for the operation of the ICOC~~  
11 ~~and its working groups.~~
- 12 ~~(h) Perform all other acts necessary or appropriate in the exercise~~  
13 ~~of its power, authority, and jurisdiction over the institute.~~
- 14 ~~(i) Select members of the working groups.~~
- 15 ~~(j) Adopt, amend, and rescind rules and regulations to carry out~~  
16 ~~the purposes and provisions of this chapter, and to govern the~~  
17 ~~procedures of the ICOC. Except as provided in subdivision (k),~~  
18 ~~these rules and regulations shall be adopted in accordance with~~  
19 ~~the Administrative Procedure Act (Government Code, Title 2,~~  
20 ~~Division 3, Part 1, Chapter 4.5, Sections 11371 et seq.).~~
- 21 ~~(k) Notwithstanding the Administrative Procedure Act (APA),~~  
22 ~~and in order to facilitate the immediate commencement of research~~  
23 ~~covered by this chapter, the ICOC may adopt interim regulations~~  
24 ~~without compliance with the procedures set forth in the APA. The~~  
25 ~~interim regulations shall remain in effect for 270 days unless earlier~~  
26 ~~superseded by regulations adopted pursuant to the APA.~~
- 27 ~~(l) Request the issuance of bonds from the California Stem Cell~~  
28 ~~Research and Cures Finance Committee and loans from the Pooled~~  
29 ~~Money Investment Board.~~
- 30 ~~(m) May annually modify its funding and finance programs to~~  
31 ~~optimize the institute's ability to achieve the objective that its~~  
32 ~~activities be revenue-positive for the state during its first five years~~  
33 ~~of operation without jeopardizing the progress of its core medical~~  
34 ~~and scientific research program.~~
- 35 ~~(n) Notwithstanding Section 11005 of the Government Code,~~  
36 ~~accept additional revenue and real and personal property, including,~~  
37 ~~but not limited to, gifts, royalties, interest, and appropriations that~~  
38 ~~may be used to supplement annual research grant funding and the~~  
39 ~~operations of the institute.~~

- 1     ~~(o) Under the guidance of the ICOC, the institute shall create a~~  
2 ~~succession plan addressing changes in leadership of both the~~  
3 ~~institute and the ICOC designed to minimize disruption and adverse~~  
4 ~~impacts to the activities of the institute. A copy of the succession~~  
5 ~~plan shall be transmitted to the Governor, Controller, and the~~  
6 ~~Legislature within 30 days of its completion. The succession plan~~  
7 ~~should include, but is not limited to:~~  
8     ~~(1) An assessment of leadership needs before beginning a search.~~  
9     ~~(2) An outline of succession procedures.~~  
10    ~~(3) Strategies to ensure successful knowledge transfer.~~