

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 960

Introduced by Assembly Member Chiu
(Coauthors: Assembly Members Eggman and Low)
(Coauthor: Senator Leno)

February 26, 2015

An act to amend Sections 7613 and 7613.5 of the Family Code, relating to parentage.

LEGISLATIVE COUNSEL'S DIGEST

AB 960, as amended, Chiu. Parentage: assisted reproduction.

Existing law provides that the spouse of a woman who conceives through assisted reproduction with semen donated by a man not her husband is treated as if he or she were the natural parent of the child. Existing law further provides that the donor of semen provided to a licensed physician 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 as if he were not the natural father of the child.

This bill would provide that the donor of semen *provided to a licensed physician and surgeon or to a licensed sperm bank* for use in assisted reproduction is treated as if he were not the natural parent of the child ~~if the semen was provided to a licensed physician and surgeon or a licensed sperm bank~~, *unless otherwise agreed to in a writing signed by the donor and woman prior to the conception of the child. The bill would also provide, if the semen is not provided to a licensed physician and surgeon or a licensed sperm bank, that the donor of semen for use*

in assisted reproduction by a woman other than the donor’s spouse is treated in law as if he were not the natural parent of the child if either the donor and the woman agreed in a writing prior to conception that the donor would not be a ~~parent~~, parent or a court finds satisfactory evidence that, prior to conception, the donor and the woman intended to conceive through artificial reproduction and both the woman and the donor intended that the donor would not be a parent. The bill would provide that the donor of ova for use in assisted reproduction is treated as if she were not the natural parent of a child thereby conceived unless the court finds satisfactory evidence that the donor and the woman intended for the donor to be a parent.

This bill would also create a new form for assisted reproduction that would provide clarity regarding a person’s intent to be a legal parent if he or she is using assisted reproduction that results in a child at the time of conception from a known sperm *or ova* donor. The bill would also state that the use of this form, if signed prior to the conception of a child, is presumed to satisfy the writing requirement described above.

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 7613 of the Family Code is amended to
- 2 read:
- 3 7613. (a) If a woman conceives through assisted reproduction
- 4 with semen *or ova or both* donated by a ~~man~~ donor not her spouse,
- 5 with the consent of another ~~person, the other person intended~~
- 6 *parent, that intended parent* is treated in law as if he or she were
- 7 the natural parent of a child thereby conceived. The other ~~person’s~~
- 8 *intended parent’s* consent shall be in writing and signed by the
- 9 other ~~person intended parent~~ and the woman conceiving through
- 10 assisted reproduction.
- 11 (b) (1) The donor of semen *provided to a licensed physician*
- 12 *and surgeon or to a licensed sperm bank* for use in assisted
- 13 reproduction by a woman other than the donor’s spouse is treated
- 14 in law as if he were not the natural parent of a child thereby
- 15 ~~conceived if any of the following are met: conceived, unless~~
- 16 *otherwise agreed to in a writing signed by the donor and the*
- 17 *woman prior to the conception of the child.*

1 ~~(A) The semen was provided to a licensed physician and surgeon~~
2 ~~or to a licensed sperm bank for use in assisted reproduction.~~

3 *(2) If the semen is not provided to a licensed physician and*
4 *surgeon or a licensed sperm bank as specified in paragraph (1),*
5 *the donor of semen for use in assisted reproduction by a woman*
6 *other than the donor's spouse is treated in law as if he were not*
7 *the natural parent of a child thereby conceived if either of the*
8 *following are met:*

9 ~~(B)~~

10 (A) The donor and the woman agreed in a writing signed prior
11 to conception that the donor would not be a parent.

12 ~~(C)~~

13 (B) A court finds satisfactory evidence that, prior to the
14 conception of the child, the donor and the woman planned to
15 conceive through assisted reproduction and that both the donor
16 and the woman intended that the donor would not be a parent.

17 ~~(2) Paragraph (1) does~~

18 *(3) Paragraphs (1) and (2) do not apply to a man who provided*
19 *semen for use in assisted reproduction by a woman other than the*
20 *man's spouse pursuant to a written agreement signed by the man*
21 *and the woman prior to conception of the child stating that they*
22 *intended for the man to be a parent.*

23 *(c) The donor of ova for use in assisted reproduction by a*
24 *woman other than the donor's spouse or nonmarital partner is*
25 *treated in law as if she were not the natural parent of a child*
26 *thereby conceived unless the court finds satisfactory evidence that*
27 *the donor and the woman intended for the donor to be a parent.*

28 SEC. 2. Section 7613.5 of the Family Code is amended to read:

29 7613.5. (a) An intended parent may, but is not required to, use
30 the forms set forth in this section to demonstrate his or her intent
31 to be a legal parent of a child conceived through assisted
32 reproduction. These forms shall satisfy the writing requirement
33 specified in Section 7613, and are designed to provide clarity
34 regarding the intentions, at the time of conception, of intended
35 parents using assisted reproduction. These forms do not affect any
36 presumptions of parentage based on Section 7611, and do not
37 preclude a court from considering any other claims to parentage
38 under California statute or case law.

39 (b) These forms apply only in very limited circumstances. Please
40 read the forms carefully to see if you qualify for use of the forms.

1 (c) These forms do not apply to assisted reproduction agreements
2 for gestational carriers or surrogacy agreements.

3 (d) Nothing in this section shall be interpreted to require the use
4 of one of these forms to satisfy the writing requirement of Section
5 7613.

6 (e) The following are the optional California Statutory Forms
7 for Assisted Reproduction:

8

9 **California Statutory Forms for Assisted Reproduction, Form 1:**

10

11 Two Married or Unmarried People Using Assisted Reproduction to Conceive
12 a Child

13 Use this form if: You and another ~~person~~ *intended parent, who may be your*
14 *spouse or registered domestic partner*, are conceiving a child through assisted
15 reproduction using sperm and/or egg donation; and one of you will be giving
16 birth.

17

18 **WARNING: Signing this form does not terminate the parentage claim of**
19 **a sperm donor.** A sperm donor’s claim to parentage is terminated if the sperm
20 is provided to a licensed physician ~~or~~ *and* surgeon or to a licensed sperm bank
21 prior to insemination, or if you conceive without having sexual intercourse
22 and you have a written agreement signed by ~~you, your spouse,~~ *you* and the
23 donor that you will conceive using assisted reproduction and do not intend for
24 the donor to be a parent, as required by Section 7613(b) of the Family Code.

25

26 The laws about parentage of a child are complicated. **You are strongly**
27 **encouraged to consult with an attorney about your rights.** Even if you do
28 not fill out this form, a spouse or domestic partner of the parent giving birth
29 is presumed to be a legal parent of any child born during the marriage or
30 domestic partnership.

31

32

33

34 This form demonstrates your intent to be parents of the child you plan to
35 conceive through assisted reproduction using sperm and/or egg donation.

36

37 I, _____ (print name of person not giving birth), intend to
38 be a parent of a child that _____ (print name of person
39 giving birth) will or has conceived through assisted reproduction using sperm

1 and/or egg donation. I consent to the use of assisted reproduction by the person
2 who will give birth. I INTEND to be a parent of the child conceived.

3

4 SIGNATURES

5

6 Intended parent who will give birth: _____ (print name)

7 _____ (signature) _____ (date)

8

9 Intended parent who will not give birth: _____ (print name)

10 _____ (signature) _____ (date)

11

12 _____

13

14 NOTARY ACKNOWLEDGMENT

15

16 State of California

17 County of _____)

18

19 On _____ before me, _____
20 (insert name and title of the officer)

21 personally appeared _____,

22 who proved to me on the basis of satisfactory evidence to be the person(s)
23 whose name(s) is/are subscribed to the within instrument and acknowledged
24 to me that he/she/they executed the same in his/her/their authorized capacity,
25 and that by his/her/their signature(s) on the instrument the person(s), or the
26 entity upon behalf of which the person(s) acted, executed the instrument.

27

28 I certify under PENALTY OF PERJURY under the laws of the State of
29 California that the foregoing paragraph is true and correct.

30

31 WITNESS my hand and official seal.

32

33 Signature _____ (Seal)

34

35

36 _____

37

38 California Statutory Forms for Assisted Reproduction, Form 2:

39

1 Unmarried, Intended Parents Using Intended Parent’s Sperm to Conceive a
2 Child

3 Use this form if: (1) Neither you or the other person are married or in a
4 registered domestic partnership (including a registered domestic partnership
5 or civil union from another state); (2) one of you will give birth to a child
6 conceived through assisted reproduction using the intended parent’s sperm;
7 and (3) you both intend to be parents of that child.

8
9 Do not use this form if you are conceiving using a surrogate.

10
11 WARNING: If you do not sign this form, or a similar agreement, you may be
12 treated as a sperm donor if you conceive without having sexual intercourse
13 according to Section 7613(b) of the Family Code.

14
15 The laws about parentage of a child are complicated. **You are strongly**
16 **encouraged to consult with an attorney about your rights.**

17
18 _____

19
20 This form demonstrates your intent to be parents of the child you plan to
21 conceive through assisted reproduction using sperm donation.

22
23 I, _____ (print name of parent giving birth), plan to use
24 assisted reproduction with another intended parent who is providing sperm to
25 conceive the child. I am not married and am not in a registered domestic
26 partnership (including a registered domestic partnership or civil union from
27 another jurisdiction), and I INTEND for the person providing sperm to be a
28 parent of the child to be conceived.

29
30 I, _____ (print name of parent providing sperm), plan to
31 use assisted reproduction to conceive a child using my sperm with the parent
32 giving birth. I am not married and am not in a registered domestic partnership
33 (including a registered domestic partnership or civil union from another
34 jurisdiction), and I INTEND to be a parent of the child to be conceived.

35
36 SIGNATURES

37
38 Intended parent giving birth: _____ (print name)
39 _____ (signature) _____ (date)

40

1 Intended parent providing sperm: _____ (print name)
 2 _____ (signature) _____ (date)
 3
 4 _____
 5

6 NOTARY ACKNOWLEDGMENT

7
 8 State of California
 9 County of _____)

10
 11 On _____ before me, _____
 12 (insert name and title of the officer)
 13 personally appeared _____,
 14 who proved to me on the basis of satisfactory evidence to be the person(s)
 15 whose name(s) is/are subscribed to the within instrument and acknowledged
 16 to me that he/she/they executed the same in his/her/their authorized capacity,
 17 and that by his/her/their signature(s) on the instrument the person(s), or the
 18 entity upon behalf of which the person(s) acted, executed the instrument.
 19

20 I certify under PENALTY OF PERJURY under the laws of the State of
 21 California that the foregoing paragraph is true and correct.
 22

23 WITNESS my hand and official seal.

24
 25 Signature _____ (Seal)
 26
 27
 28 _____
 29

30 **California Statutory Forms for Assisted Reproduction, Form 3:**

31
 32 Intended Parents Conceiving a Child Using Eggs from One Parent and the
 33 Other Parent Will Give Birth

34 Use this form if: You are conceiving a child using the eggs from one of you
 35 and the other person will give birth to the child; (2) and you both intend to be
 36 parents to that child.
 37

38 Do not use this form if you are conceiving using a surrogate.
 39

1 **WARNING: Signing this form does not terminate the parentage claim of**
 2 **a spermdonor.** A sperm donor’s claim to parentage is terminated if the sperm
 3 is provided to a licensed physician ~~or~~ *and* surgeon or to a licensed sperm bank
 4 prior to insemination, or if you conceive without having sexual intercourse
 5 and you have a written agreement signed by ~~you, your spouse;~~ *you* and the
 6 donor that you will conceive using assisted reproduction and do not intend for
 7 the donor to be a parent, as required by Section 7613(b) of the Family Code.

8
 9 The laws about parentage of a child are complicated. **You are strongly**
 10 **encouraged to consult with an attorney about your rights.**
 11 _____
 12

13
 14 This form demonstrates your intent to be parents of the child you plan to
 15 conceive through assisted reproduction using eggs from one parent and the
 16 other parent will give birth to the child.

17
 18 I, _____ (print name of parent giving birth), plan to use
 19 assisted reproduction to conceive and give birth to a child with another person
 20 who will provide eggs to conceive the child. I INTEND for the person providing
 21 eggs to be a parent of the child to be conceived.

22
 23 I, _____ (print name of parent providing eggs), plan to use
 24 assisted reproduction to conceive a child with another person who will give
 25 birth to the child conceived using my eggs. I INTEND to be a parent of the
 26 child to be conceived.

27
 28 SIGNATURES

29
 30 Intended parent giving birth: _____ (print name)
 31 _____ (signature) _____ (date)

32
 33 Intended parent providing eggs: _____ (print name)
 34 _____ (signature) _____ (date)

35
 36 _____
 37

38 NOTARY ACKNOWLEDGMENT

39
 40 State of California

1 County of _____)

2

3 On _____ before me, _____
4 (insert name and title of the officer)

5 personally appeared _____,
6 who proved to me on the basis of satisfactory evidence to be the person(s)
7 whose name(s) is/are subscribed to the within instrument and acknowledged
8 to me that he/she/they executed the same in his/her/their authorized capacity,
9 and that by his/her/their signature(s) on the instrument the person(s), or the
10 entity upon behalf of which the person(s) acted, executed the instrument.

11

12 I certify under PENALTY OF PERJURY under the laws of the State of
13 California that the foregoing paragraph is true and correct.

14

15 WITNESS my hand and official seal.

16

17 Signature _____ (Seal)

18

19

20

21

22 **California Statutory Forms for Assisted Reproduction, Form 4:**

23

24 Intended Parent(s) Using a Known Sperm-Donor and/or Egg Donor(s) to
25 Conceive a Child

26 Use this form if: You are using a known sperm-donor and/or egg donor(s), or
27 embryo donation, to conceive a child and you do not intend for the-donor
28 donor(s) to be a parent.

29

30 Do not use this form if you are conceiving using a surrogate.

31

32 **WARNING: Signing this form does not terminate the parentage claim of**
33 **a sperm donor.** If you do not sign this form or a similar agreement, your sperm
34 donor may be treated as a parent unless the sperm is provided to a licensed
35 physician or and surgeon or to a licensed sperm bank prior to insemination,
36 or a court finds that there is satisfactory evidence that you planned to conceive
37 through assisted reproduction and did not intend for the donor to be a parent,
38 as required by Section 7613(b) of the Family Code. *If you do not sign this form*
39 *or a similar agreement, your egg donor may be treated as a parent unless a*
40 *court finds that there is satisfactory evidence that you planned to conceive*

1 through assisted reproduction and did not intend for the donor to be a parent,
2 as required by Section 7613(c) of the Family Code.

3
4 The laws about parentage of a child are complicated. **You are strongly**
5 **encouraged to consult with an attorney about your rights.**

6
7 _____

8
9 This form demonstrates your intent that your sperm ~~donor~~ and/or egg or embryo
10 donor(s) will not be a ~~parent~~ a parent or parents of the child you plan to
11 conceive through assisted ~~reproduction using sperm donation~~ reproduction.

12
13 I, _____ (print name of parent giving birth), plan to use
14 assisted reproduction to conceive using a sperm ~~donor~~, and/or egg donor(s)
15 or embryo donation, and I DO NOT INTEND for the sperm donor to be a
16 parent of the child to be conceived. ~~conceived~~.

17
18 ~~I~~, (If applicable) I, _____ (print name of sperm donor), plan
19 to donate my sperm to _____ (print name of parent giving
20 birth and second parent if applicable) I am not married and am not in a
21 registered domestic partnership (including a registered domestic partnership
22 or a civil union from another jurisdiction) with _____ (print
23 name of parent giving birth), and I DO NOT INTEND to be a parent of the
24 child to be conceived.

25
26 (If applicable) I, _____ (print name of egg donor), plan to
27 donate my ova to _____ (print name of parent giving birth
28 and second parent if applicable) I am not married and am not in a registered
29 domestic partnership (including a registered domestic partnership or a civil
30 union from another jurisdiction) with _____ (print name of
31 parent giving birth), or any intimate and nonmarital relationship with
32 _____ (print name of parent giving birth) and I DO NOT
33 INTEND to be a parent of the child to be conceived.

34
35 (If applicable) I, _____ (print name of intended parent not
36 giving birth), I INTEND to be a parent of the child that
37 _____ (print name of parent giving birth) will conceive
38 through assisted reproduction using a sperm ~~donor~~ and/or egg donation and I
39 DO NOT INTEND to for the sperm donor to be a parent. I consent to the use
40 of assisted reproduction by the person who will give birth.

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SIGNATURES

Intended parent giving birth: _____ (print name)
_____ (signature) _____ (date)

~~Sperm~~ (If applicable) Sperm Donor: _____ (print name)
_____ (signature) _____ (date)

(If applicable) Egg Donor: _____ (print name)
_____ (signature) _____ (date)

~~Intended~~ (If applicable) Intended parent not giving birth: _____ (print name)
_____ (signature) _____ (date)

NOTARY ACKNOWLEDGMENT

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their authorized capacity,
and that by his/her/their signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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