

Assembly Bill No. 960

Passed the Assembly August 24, 2015

Chief Clerk of the Assembly

Passed the Senate August 17, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 960, 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 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 or a court finds by clear and convincing evidence that the child was conceived through assisted reproduction and that, prior to the conception of the child, the woman and the donor had an oral agreement 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.

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

SECTION 1. Section 7613 of the Family Code is amended to read:

7613. (a) If a woman conceives through assisted reproduction with semen or ova or both donated by a donor not her spouse, with the consent of another intended parent, that intended parent is treated in law as if he or she were the natural parent of a child thereby conceived. The other intended parent's consent shall be in writing and signed by the other intended parent and the woman conceiving through assisted reproduction.

(b) (1) The donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank 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 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.

(2) If the semen is not provided to a licensed physician and surgeon or a licensed sperm bank as specified in paragraph (1), 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 a child thereby conceived if either of the following are met:

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

(B) A court finds by clear and convincing evidence that the child was conceived through assisted reproduction and that, prior to the conception of the child, the woman and the donor had an oral agreement that the donor would not be a parent.

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

(c) The donor of ova for use in assisted reproduction by a woman other than the donor's spouse or nonmarital partner is treated in

law 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.

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

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

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

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

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

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

California Statutory Forms for Assisted Reproduction, Form 1:

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

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

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

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

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

I, _____ (print name of person not giving birth), intend to be a parent of a child that _____ (print name of person giving birth) will or has conceived through assisted reproduction using sperm and/or egg donation. I consent to the use of assisted reproduction by the person who will give birth. I INTEND to be a parent of the child conceived.

SIGNATURES

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

Intended parent who will not give 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)

California Statutory Forms for Assisted Reproduction, Form 2:

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

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

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

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

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

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

I, _____ (print name of parent giving birth), plan to use assisted reproduction with another intended parent who is providing sperm to conceive the child. I am not married and am not in a registered domestic

partnership (including a registered domestic partnership or civil union from another jurisdiction), and I INTEND for the person providing sperm to be a parent of the child to be conceived.

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

SIGNATURES

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

Intended parent providing sperm: _____ (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)

California Statutory Forms for Assisted Reproduction, Form 3:

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

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

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

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

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

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

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

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

SIGNATURES

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

Intended parent providing eggs: _____ (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)

California Statutory Forms for Assisted Reproduction, Form 4:

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

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

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

If you do not sign this form or a similar agreement, your sperm donor may be treated as a parent unless the sperm is provided to a licensed physician and surgeon or to a licensed sperm bank prior to insemination, or a court finds by clear and convincing evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by Section 7613(b) of the Family Code. If you do not sign this form or a similar agreement, your egg donor may be treated as a parent unless a court finds that there is satisfactory evidence that you planned to conceive through assisted reproduction and did not intend for the donor to be a parent, as required by Section 7613(c) of the Family Code.

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

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

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

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

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

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

SIGNATURES

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

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

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

(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)

Approved _____, 2015

Governor