S T A T E O F N E W Y O R K

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. GOTTFRIED, PAULIN, GALEF -- Multi-Sponsored by -- M. of A. HOOPER, SCARBOROUGH -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to parentage of children born by medically-assisted reproduction

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 73 of the domestic relations law, as added by chapter 303 of the laws of 1974, subdivision 1 as amended by chapter 305 of the laws of 2008, is amended to read as follows:

S 73. [Legitimacy] PARENTAGE of children born by [artificial insemination] MEDICALLY-ASSISTED REPRODUCTION. 1. Any child born to a married woman by means of [artificial insemination] MEDICALLY-ASSISTED REPRODUCTION performed by [persons duly authorized to practice medicine] A HEALTH CARE PRACTITIONER LICENSED, REGISTERED, OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE, and with the consent in writing of the woman and her husband, shall be deemed the legitimate, birth child of the husband and his wife for all purposes.

2. The aforesaid written consent shall be executed and acknowledged by both the husband and wife [and the physician who performs the technique shall certify that he had rendered the service] BEFORE OR AT ANY TIME AFTER THE BIRTH OF THE CHILD.

3. UNLESS OTHERWISE AGREED TO IN AN ACKNOWLEDGED WRITING BY THE DONOR, THE WOMAN AND HER HUSBAND PRIOR TO THE DONATION OF THE GENETIC MATERIAL, THE DONOR SHALL BE TREATED IN LAW AS IF HE OR SHE WERE NOT THE NATURAL FATHER OR MOTHER OF A CHILD THEREBY CONCEIVED FOR ALL PURPOSES.

4. NO INFERENCE REGARDING PARENTAGE SHALL BE DRAWN FROM THIS SECTION WITH RESPECT TO A CHILD BORN BY MEDICALLY-ASSISTED REPRODUCTION UNDER CIRCUMSTANCES NOT IN COMPLIANCE WITH SUBDIVISIONS ONE THROUGH THREE OF THIS SECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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5. FOR THE PURPOSES OF THIS SECTION: (A) "CHILD" MEANS AN INDIVIDUAL OF ANY AGE WHOSE PARENTAGE IS BEING DETERMINED.

(B) "DONOR" MEANS AN INDIVIDUAL WHO PRODUCES EGGS OR SPERM USED FOR ASSISTED REPRODUCTION, WHETHER OR NOT FOR CONSIDERATION. THE TERM DOES NOT INCLUDE:

(I) A HUSBAND WHO PROVIDES SPERM, OR A WIFE WHO PROVIDES EGGS, TO BE USED FOR MEDICALLY-ASSISTED REPRODUCTION BY THE WIFE; OR

(II) A WOMAN WHO GIVES BIRTH TO A CHILD BY MEANS OF MEDICALLY-ASSISTED REPRODUCTION.

(C) "MEDICALLY-ASSISTED REPRODUCTION" MEANS ANY MEDICALLY-ASSISTED METHOD OF CAUSING PREGNANCY, OTHER THAN SEXUAL INTERCOURSE BETWEEN HUSBAND AND WIFE. THE TERM INCLUDES, WITHOUT LIMITATION:

(I) ARTIFICIAL INSEMINATION;

(II) IN VITRO FERTILIZATION AND EMBRYO TRANSFER; AND

(III) GAMETE INTRAFALLOPIAN TRANSFER.

S 2. This act shall take effect immediately and shall apply to any child described in subdivision 1 of section 73 of the domestic relations law as amended by section one of this act, whether born by means of artificial insemination or any other technique of medically-assisted reproduction before, on or after the effective date of this act.