

# AN ACT

To amend section 3111.03 and to enact section 3111.97 of the Revised Code to clarify the parentage of children born as a result of embryo donation.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 3111.03 be amended and section 3111.97 of the Revised Code be enacted to read as follows:

Sec. 3111.03. (A) A man is presumed to be the natural father of a child under any of the following circumstances:

(1) The man and the child's mother are or have been married to each other, and the child is born during the marriage or is born within three hundred days after the marriage is terminated by death, annulment, divorce, or dissolution or after the man and the child's mother separate pursuant to a separation agreement.

(2) The man and the child's mother attempted, before the child's birth, to marry each other by a marriage that was solemnized in apparent compliance with the law of the state in which the marriage took place, the marriage is or could be declared invalid, and either of the following applies:

(a) The marriage can only be declared invalid by a court and the child is born during the marriage or within three hundred days after the termination of the marriage by death, annulment, divorce, or dissolution;

(b) The attempted marriage is invalid without a court order and the child is born within three hundred days after the termination of cohabitation.

(3) An acknowledgment of paternity has been filed pursuant to section 3111.23 or former section 5101.314 of the Revised Code and has not become final under former section 3111.211 or 5101.314 or section 2151.232, 3111.25, or 3111.821 of the Revised Code.

(B) A presumption that arises under this section can only be rebutted by clear and convincing evidence that includes the results of genetic testing, except that a presumption that is conclusive as provided in division (A) of section 3111.95 or division (B) of section 3111.97 of the Revised Code cannot be rebutted. An acknowledgment of paternity that becomes final under section 2151.232, 3111.25, or 3111.821 of the Revised Code is not a

presumption and shall be considered a final and enforceable determination of paternity unless the acknowledgment is rescinded under section 3111.28 or 3119.962 of the Revised Code. If two or more conflicting presumptions arise under this section, the court shall determine, based upon logic and policy considerations, which presumption controls.

(C)(1) Except as provided in division (C)(2) of this section, a presumption of paternity that arose pursuant to this section prior to ~~the effective date of this amendment~~ March 22, 2001, shall remain valid on and after that date unless rebutted pursuant to division (B) of this section. This division does not apply to a determination described in division (B)(3) of this section as division (B)(3) of this section existed prior to ~~the effective date of this amendment~~ March 22, 2001.

(2) A presumption of paternity that arose prior to ~~the effective date of this amendment~~ March 22, 2001, based on an acknowledgment of paternity that became final under former section 3111.211 or 5101.314 or section 2151.232 of the Revised Code is not a presumption and shall be considered a final and enforceable determination of paternity unless the acknowledgment is rescinded under section 3111.28 or 3119.962 of the Revised Code.

Sec. 3111.97. (A) A woman who gives birth to a child born as a result of embryo donation shall be treated in law and regarded as the natural mother of the child, and the child shall be treated in law and regarded as the natural child of the woman. No action or proceeding under this chapter shall affect the relationship.

(B) If a married woman gives birth to a child born as a result of embryo donation to which her husband consented, the husband shall be treated in law and regarded as the natural father of the child, and the child shall be treated in law and regarded as the natural child of the husband. A presumption that arises under division (A)(1) or (2) of section 3111.03 of the Revised Code is conclusive with respect to this father and child relationship, and no action or proceeding under this chapter shall affect the relationship.

(C) If a married woman gives birth to a child born as a result of embryo donation to which her husband has not consented, a presumption that arises under division (A)(1) or (2) of section 3111.03 of the Revised Code that the husband is the father of the child may be rebutted by clear and convincing evidence that includes the lack of consent to the embryo donation.

(D) As used in this division, "donor" means an individual who produced genetic material used to create an embryo, consents to the implantation of the embryo in a woman who is not the individual or the individual's wife,

and at the time of the embryo donation does not intend to raise the resulting child as the individual's own.

If an individual who produced genetic material used to create an embryo dies, the other person who produced genetic material used to create the embryo may consent to donate the embryo. In such a case, the deceased person shall be deemed a donor for the purposes of this section.

A donor shall not be treated in law or regarded as a parent of a child born as a result of embryo donation. A donor shall have no parental responsibilities and shall have no right, obligation, or interest with respect to a child resulting from the donation.

(E) This section deals with embryo donation for the purpose of impregnating a woman so that she can bear a child that she intends to raise as her child.

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SECTION 2. That existing section 3111.03 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_