

**As Passed by the Senate**

**126th General Assembly  
Regular Session  
2005-2006**

**Am. H. B. No. 102**

**Representatives Wolpert, Faber, Core, Seaver, Willamowski, Raussen,  
Combs, G. Smith, Martin, Hoops, Reidelbach, Harwood, Allen, Buehrer,  
Cassell, Coley, Collier, Domenick, C. Evans, Flowers, Gibbs, Gilb, Hagan,  
Hood, Hughes, McGregor, Schaffer, Setzer, White, Williams  
Senators Amstutz, Fedor, Grendell, Niehaus, Padgett**

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**A B I L L**

To amend section 3111.03 and to enact section 3111.97 1  
of the Revised Code to clarify the parentage of 2  
children born as a result of embryo donation. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3111.03 be amended and section 4  
3111.97 of the Revised Code be enacted to read as follows: 5

**Sec. 3111.03.** (A) A man is presumed to be the natural father 6  
of a child under any of the following circumstances: 7

(1) The man and the child's mother are or have been married 8  
to each other, and the child is born during the marriage or is 9  
born within three hundred days after the marriage is terminated by 10  
death, annulment, divorce, or dissolution or after the man and the 11  
child's mother separate pursuant to a separation agreement. 12

(2) The man and the child's mother attempted, before the 13  
child's birth, to marry each other by a marriage that was 14  
solemnized in apparent compliance with the law of the state in 15

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 47  
division (B)(3) of this section existed prior to ~~the effective~~ 48  
~~date of this amendment~~ March 22, 2001. 49

(2) A presumption of paternity that arose prior to ~~the~~ 50  
~~effective date of this amendment~~ March 22, 2001, based on an 51  
acknowledgment of paternity that became final under former section 52  
3111.211 or 5101.314 or section 2151.232 of the Revised Code is 53  
not a presumption and shall be considered a final and enforceable 54  
determination of paternity unless the acknowledgment is rescinded 55  
under section 3111.28 or 3119.962 of the Revised Code. 56

Sec. 3111.97. (A) A woman who gives birth to a child born as 57  
a result of embryo donation shall be treated in law and regarded 58  
as the natural mother of the child, and the child shall be treated 59  
in law and regarded as the natural child of the woman. No action 60  
or proceeding under this chapter shall affect the relationship. 61

(B) If a married woman gives birth to a child born as a 62  
result of embryo donation to which her husband consented, the 63  
husband shall be treated in law and regarded as the natural father 64  
of the child, and the child shall be treated in law and regarded 65  
as the natural child of the husband. A presumption that arises 66  
under division (A)(1) or (2) of section 3111.03 of the Revised 67  
Code is conclusive with respect to this father and child 68  
relationship, and no action or proceeding under this chapter shall 69  
affect the relationship. 70

(C) If a married woman gives birth to a child born as a 71  
result of embryo donation to which her husband has not consented, 72  
a presumption that arises under division (A)(1) or (2) of section 73  
3111.03 of the Revised Code that the husband is the father of the 74  
child may be rebutted by clear and convincing evidence that 75  
includes the lack of consent to the embryo donation. 76

(D) As used in this division, "donor" means an individual who 77

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.

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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.

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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.

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(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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