

**As Reported by the Senate Health, Human Services and Aging
Committee**

**126th General Assembly
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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**

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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 78
the implantation of the embryo in a woman who is not the 79
individual or the individual's wife, and at the time of the embryo 80
donation does not intend to raise the resulting child as the 81
individual's own. 82

If an individual who produced genetic material used to create 83
an embryo dies, the other person who produced genetic material 84
used to create the embryo may consent to donate the embryo. In 85
such a case, the deceased person shall be deemed a donor for the 86
purposes of this section. 87

A donor shall not be treated in law or regarded as a parent 88
of a child born as a result of embryo donation. A donor shall have 89
no parental responsibilities and shall have no right, obligation, 90
or interest with respect to a child resulting from the donation. 91

(E) This section deals with embryo donation for the purpose 92
of impregnating a woman so that she can bear a child that she 93
intends to raise as her child. 94

Section 2. That existing section 3111.03 of the Revised Code 95
is hereby repealed. 96