SPONSOR: Sen. Lawson & Rep. Dukes
Sens. Hansen, Hocker, Hoffner, Lockman, Pettyjohn, Richardson, Wilson; Reps. Hilovsky, Wilson-Anton

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 236

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO PARENTAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter X. Miscellaneous Provisions.

Section 2. Amend Chapter 8, Title 13 of the Delaware Code by transferring §§ 8-901 through 8-8-904 of Title 13 of the Delaware Code from Subchapter IX, Chapter 8 of Title 13 of the Delaware Code to Subchapter X, Chapter 8 of Title 13 and redesignating accordingly.

Section 3. Amend Chapter 8, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter IX. ~~Miscellaneous Provisions.~~ Information About Donor.

§ 8- 901. Definitions.

In this subchapter

(1) "Identifying information" means:

a. The full name of a donor;

b. The date of birth of the donor; and

c. The permanent and, if different, current address, telephone number, and electronic mail address of the donor at the time of the donation.

(2) "Medical history" means information regarding any:

a. Present illness of a donor;

b. Past illness of the donor; and

c. Social, genetic, and family history pertaining to the health of the donor.

§ 8-902. Applicability.

This subchapter applies only to gametes collected on or after [the effective date of this Act].

§ 8-903. Collection of information.

(a) A gamete bank or fertility clinic licensed in this State shall collect from a donor the donor's identifying information and medical history at the time of the donation.

(b) A gamete bank or fertility clinic licensed in this State which receives gametes of a donor collected by another gamete bank or fertility clinic shall collect the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

(c) A gamete bank or fertility clinic licensed in this State shall disclose the information collected under subsections (a) and (b) of this section as provided under § 8-904 of this title.

§ 8-904. Disclosure of identifying information and medical history.

(a) On request of a child conceived by assisted reproduction who attains 18 years of age, a gamete bank or fertility clinic licensed in this State which collected the gametes used in the assisted reproduction shall provide the child with identifying information of the donor who provided the gametes.

(b) Regardless whether a child has made a request under subsection (a) of this section, on request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this State which collected the gametes used in the assisted reproduction shall provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

(c) On request of a child conceived by assisted reproduction who attains 18 years of age, or, if the child is a minor, of a parent or guardian of the child, a gamete bank or fertility clinic licensed in this State which received the gametes used in the assisted reproduction from another gamete bank or fertility clinic shall disclose to the child or, if the child is a minor, the parent or guardian of the child, the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

§ 8-905. Recordkeeping.

(a) A gamete bank or fertility clinic licensed in this State which collects gametes for use in assisted reproduction shall maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this State other than this chapter.

(b) A gamete bank or fertility clinic licensed in this State that receives gametes from another gamete bank or fertility clinic shall maintain the name, address, telephone number, and electronic mail address of the gamete bank or fertility clinic from which it received the gametes.

SYNOPSIS

This Act adopts a portion of the 2017 updates to the Uniform Parentage Act ("Uniform Act") authored by the Uniform Law Commission. The Uniform Law Commission “provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.”

Specifically, this Act adopts provisions setting forth requirements and procedures regarding access to non-identifying medical history and identifying information regarding gamete providers by children born through assisted reproduction and their parents.

Based on data from 2015, the CDC reports that “approximately 1.6% of all infants born in the United States every year are conceived using ART.” Data suggest that this percentage continues to increase. Gaia Bernstein, Unintended Consequences: Prohibitions on Gamete Donor Anonymity and the Fragile Practice of Surrogacy, 10 Ind. Health L. Rev. 291, 298 (2013) (noting that “from 2004 to 2008 the number of IVF cycles used for gestational surrogacy grew by 60%, the number of births by gestational surrogates grew by 53% and the number of babies born to gestational surrogates grew by 89%”). Accordingly, it is increasingly important for states to address these issues.

These provisions of the Uniform Act do the following:

(1) Require gamete banks and fertility clinics to collect and retain both identifying information and nonidentifying medical history about gamete donors.

(2) Provide that gamete banks and fertility centers shall provide non-identifying medical history to parents on request at any time and on request by the donor-conceived child who attains 18 years of age.

(3) With regard to identifying information, provide that a gamete bank or fertility center shall provide this information to the donor conceived child who attains 18 years of age on their request.

Author: Senator Lawson