

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN ASSEMBLY APRIL 28, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 960**

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**Introduced by Assembly Member Chiu**  
**(Coauthors: Assembly Members ~~Eggman~~ *Eggman, Gordon, and***  
**Low)**  
(Coauthor: Senator Leno)

February 26, 2015

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An act to amend Sections 7613 and 7613.5 of the Family Code, relating to parentage.

LEGISLATIVE COUNSEL'S DIGEST

AB 960, as amended, Chiu. Parentage: assisted reproduction.

Existing law provides that the spouse of a woman who conceives through assisted reproduction with semen donated by a man not her husband is treated as if he or she were the natural parent of the child. Existing law further provides that the donor of semen provided to a licensed physician or to a licensed sperm bank for use in artificial insemination or in vitro fertilization of a woman other than the donor's wife is treated as if he were not the natural father of the child.

This bill would provide that the donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in assisted reproduction is treated as if he were not the natural parent of the child unless otherwise agreed to in a writing signed by the donor and woman prior to the conception of the child. The bill would also provide, if the semen is not provided to a licensed physician and surgeon or a licensed

sperm bank, that the donor of semen for use in assisted reproduction by a woman other than the donor’s spouse is treated in law as if he were not the natural parent of the child if either the donor and the woman agreed in a writing prior to conception that the donor would not be a parent or a court finds ~~satisfactory evidence that, prior to conception, the donor and the woman intended to conceive through artificial reproduction and both the woman and the donor intended that the donor would not be a parent.~~ *by clear and convincing evidence that the child was conceived through assisted reproduction and that, prior to the conception of the child, the woman and the donor had an oral agreement that the donor would not be a parent.* The bill would provide that the donor of ova for use in assisted reproduction is treated as if she were not the natural parent of a child thereby conceived unless the court finds satisfactory evidence that the donor and the woman intended for the donor to be a parent.

This bill would also create a new form for assisted reproduction that would provide clarity regarding a person’s intent to be a legal parent if he or she is using assisted reproduction that results in a child at the time of conception from a known sperm or ova donor. The bill would also state that the use of this form, if signed prior to the conception of a child, is presumed to satisfy the writing requirement described above.

Vote: majority. Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7613 of the Family Code is amended to
- 2 read:
- 3 7613. (a) If a woman conceives through assisted reproduction
- 4 with semen or ova or both donated by a donor not her spouse, with
- 5 the consent of another intended parent, that intended parent is
- 6 treated in law as if he or she were the natural parent of a child
- 7 thereby conceived. The other intended parent’s consent shall be
- 8 in writing and signed by the other intended parent and the woman
- 9 conceiving through assisted reproduction.
- 10 (b) (1) The donor of semen provided to a licensed physician
- 11 and surgeon or to a licensed sperm bank for use in assisted
- 12 reproduction by a woman other than the donor’s spouse is treated
- 13 in law as if he were not the natural parent of a child thereby

1 conceived, unless otherwise agreed to in a writing signed by the  
2 donor and the woman prior to the conception of the child.

3 (2) If the semen is not provided to a licensed physician and  
4 surgeon or a licensed sperm bank as specified in paragraph (1),  
5 the donor of semen for use in assisted reproduction by a woman  
6 other than the donor's spouse is treated in law as if he were not  
7 the natural parent of a child thereby conceived if either of the  
8 following are met:

9 (A) The donor and the woman agreed in a writing signed prior  
10 to conception that the donor would not be a parent.

11 ~~(B) A court finds satisfactory evidence that, prior to the~~  
12 ~~conception of the child, the donor and the woman planned to~~  
13 ~~conceive through assisted reproduction and that both the donor~~  
14 ~~and the woman intended that the donor would not be a parent.~~

15 *(B) A court finds by clear and convincing evidence that the child*  
16 *was conceived through assisted reproduction and that, prior to*  
17 *the conception of the child, the woman and the donor had an oral*  
18 *agreement that the donor would not be a parent.*

19 (3) Paragraphs (1) and (2) do not apply to a man who provided  
20 semen for use in assisted reproduction by a woman other than the  
21 man's spouse pursuant to a written agreement signed by the man  
22 and the woman prior to conception of the child stating that they  
23 intended for the man to be a parent.

24 (c) The donor of ova for use in assisted reproduction by a woman  
25 other than the donor's spouse or nonmarital partner is treated in  
26 law as if she were not the natural parent of a child thereby  
27 conceived unless the court finds satisfactory evidence that the  
28 donor and the woman intended for the donor to be a parent.

29 SEC. 2. Section 7613.5 of the Family Code is amended to read:

30 7613.5. (a) An intended parent may, but is not required to, use  
31 the forms set forth in this section to demonstrate his or her intent  
32 to be a legal parent of a child conceived through assisted  
33 reproduction. These forms shall satisfy the writing requirement  
34 specified in Section 7613, and are designed to provide clarity  
35 regarding the intentions, at the time of conception, of intended  
36 parents using assisted reproduction. These forms do not affect any  
37 presumptions of parentage based on Section 7611, and do not  
38 preclude a court from considering any other claims to parentage  
39 under California statute or case law.

1 (b) These forms apply only in very limited circumstances. Please  
2 read the forms carefully to see if you qualify for use of the forms.

3 (c) These forms do not apply to assisted reproduction agreements  
4 for gestational carriers or surrogacy agreements.

5 (d) Nothing in this section shall be interpreted to require the use  
6 of one of these forms to satisfy the writing requirement of Section  
7 7613.

8 (e) The following are the optional California Statutory Forms  
9 for Assisted Reproduction:

10

11 **California Statutory Forms for Assisted Reproduction, Form 1:**

12

13 Two Married or Unmarried People Using Assisted Reproduction to Conceive  
14 a Child

15 Use this form if: You and another intended parent, who may be your spouse  
16 or registered domestic partner, are conceiving a child through assisted  
17 reproduction using sperm and/or egg donation; and one of you will be giving  
18 birth.

19

20 **WARNING: Signing this form does not terminate the parentage claim of**  
21 **a sperm donor.** A sperm donor’s claim to parentage is terminated if the sperm  
22 is provided to a licensed physician and surgeon or to a licensed sperm bank  
23 prior to insemination, or if you conceive without having sexual intercourse  
24 and you have a written agreement signed by you and the donor that you will  
25 conceive using assisted reproduction and do not intend for the donor to be a  
26 parent, as required by Section 7613(b) of the Family Code.

27

28 The laws about parentage of a child are complicated. **You are strongly**  
29 **encouraged to consult with an attorney about your rights.** Even if you do  
30 not fill out this form, a spouse or domestic partner of the parent giving birth  
31 is presumed to be a legal parent of any child born during the marriage or  
32 domestic partnership.

33

34 \_\_\_\_\_

35

36 This form demonstrates your intent to be parents of the child you plan to  
37 conceive through assisted reproduction using sperm and/or egg donation.

38

39 I, \_\_\_\_\_ (print name of person not giving birth), intend to  
40 be a parent of a child that \_\_\_\_\_ (print name of person

1 giving birth) will or has conceived through assisted reproduction using sperm  
2 and/or egg donation. I consent to the use of assisted reproduction by the person  
3 who will give birth. I INTEND to be a parent of the child conceived.

4  
5 SIGNATURES

6  
7 Intended parent who will give birth: \_\_\_\_\_ (print name)  
8 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)

9  
10 Intended parent who will not give birth: \_\_\_\_\_ (print name)  
11 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)

12  
13 \_\_\_\_\_  
14  
15 NOTARY ACKNOWLEDGMENT

16  
17 State of California  
18 County of \_\_\_\_\_)

19  
20 On \_\_\_\_\_ before me, \_\_\_\_\_  
21 (insert name and title of the officer)

22 personally appeared \_\_\_\_\_,  
23 who proved to me on the basis of satisfactory evidence to be the person(s)  
24 whose name(s) is/are subscribed to the within instrument and acknowledged  
25 to me that he/she/they executed the same in his/her/their authorized capacity,  
26 and that by his/her/their signature(s) on the instrument the person(s), or the  
27 entity upon behalf of which the person(s) acted, executed the instrument.

28  
29 I certify under PENALTY OF PERJURY under the laws of the State of  
30 California that the foregoing paragraph is true and correct.

31  
32 WITNESS my hand and official seal.

33  
34 Signature \_\_\_\_\_ (Seal)

35  
36  
37 \_\_\_\_\_

38  
39 **California Statutory Forms for Assisted Reproduction, Form 2:**

40

1 Unmarried, Intended Parents Using Intended Parent’s Sperm to Conceive a  
2 Child

3 Use this form if: (1) Neither you or the other person are married or in a  
4 registered domestic partnership (including a registered domestic partnership  
5 or civil union from another state); (2) one of you will give birth to a child  
6 conceived through assisted reproduction using the intended parent’s sperm;  
7 and (3) you both intend to be parents of that child.

8  
9 Do not use this form if you are conceiving using a surrogate.

10  
11 WARNING: If you do not sign this form, or a similar agreement, you may be  
12 treated as a sperm donor if you conceive without having sexual intercourse  
13 according to Section 7613(b) of the Family Code.

14  
15 The laws about parentage of a child are complicated. **You are strongly**  
16 **encouraged to consult with an attorney about your rights.**

17  
18 \_\_\_\_\_

19  
20 This form demonstrates your intent to be parents of the child you plan to  
21 conceive through assisted reproduction using sperm donation.

22  
23 I, \_\_\_\_\_ (print name of parent giving birth), plan to use  
24 assisted reproduction with another intended parent who is providing sperm to  
25 conceive the child. I am not married and am not in a registered domestic  
26 partnership (including a registered domestic partnership or civil union from  
27 another jurisdiction), and I INTEND for the person providing sperm to be a  
28 parent of the child to be conceived.

29  
30 I, \_\_\_\_\_ (print name of parent providing sperm), plan to  
31 use assisted reproduction to conceive a child using my sperm with the parent  
32 giving birth. I am not married and am not in a registered domestic partnership  
33 (including a registered domestic partnership or civil union from another  
34 jurisdiction), and I INTEND to be a parent of the child to be conceived.

35  
36 SIGNATURES

37  
38 Intended parent giving birth: \_\_\_\_\_ (print name)  
39 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)

40

1 Intended parent providing sperm: \_\_\_\_\_ (print name)  
 2 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)  
 3  
 4 \_\_\_\_\_  
 5

6 NOTARY ACKNOWLEDGMENT

7  
 8 State of California  
 9 County of \_\_\_\_\_)

10  
 11 On \_\_\_\_\_ before me, \_\_\_\_\_  
 12 (insert name and title of the officer)  
 13 personally appeared \_\_\_\_\_,  
 14 who proved to me on the basis of satisfactory evidence to be the person(s)  
 15 whose name(s) is/are subscribed to the within instrument and acknowledged  
 16 to me that he/she/they executed the same in his/her/their authorized capacity,  
 17 and that by his/her/their signature(s) on the instrument the person(s), or the  
 18 entity upon behalf of which the person(s) acted, executed the instrument.  
 19

20 I certify under PENALTY OF PERJURY under the laws of the State of  
 21 California that the foregoing paragraph is true and correct.  
 22

23 WITNESS my hand and official seal.

24  
 25 Signature \_\_\_\_\_ (Seal)  
 26  
 27  
 28 \_\_\_\_\_  
 29

30 **California Statutory Forms for Assisted Reproduction, Form 3:**

31  
 32 Intended Parents Conceiving a Child Using Eggs from One Parent and the  
 33 Other Parent Will Give Birth

34 Use this form if: You are conceiving a child using the eggs from one of you  
 35 and the other person will give birth to the child; (2) and you both intend to be  
 36 parents to that child.  
 37

38 Do not use this form if you are conceiving using a surrogate.  
 39

1 **WARNING: Signing this form does not terminate the parentage claim of**  
 2 **a sperm donor. sperm donor.** A sperm donor’s claim to parentage is terminated  
 3 if the sperm is provided to a licensed physician and surgeon or to a licensed  
 4 sperm bank prior to insemination, or if you conceive without having sexual  
 5 intercourse and you have a written agreement signed by you and the donor  
 6 that you will conceive using assisted reproduction and do not intend for the  
 7 donor to be a parent, as required by Section 7613(b) of the Family Code.

8  
 9 The laws about parentage of a child are complicated. **You are strongly**  
 10 **encouraged to consult with an attorney about your rights.**  
 11 \_\_\_\_\_  
 12

13  
 14 This form demonstrates your intent to be parents of the child you plan to  
 15 conceive through assisted reproduction using eggs from one parent and the  
 16 other parent will give birth to the child.

17  
 18 I, \_\_\_\_\_ (print name of parent giving birth), plan to use  
 19 assisted reproduction to conceive and give birth to a child with another person  
 20 who will provide eggs to conceive the child. I INTEND for the person providing  
 21 eggs to be a parent of the child to be conceived.

22  
 23 I, \_\_\_\_\_ (print name of parent providing eggs), plan to use  
 24 assisted reproduction to conceive a child with another person who will give  
 25 birth to the child conceived using my eggs. I INTEND to be a parent of the  
 26 child to be conceived.

27  
 28 SIGNATURES

29  
 30 Intended parent giving birth: \_\_\_\_\_ (print name)  
 31 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)

32  
 33 Intended parent providing eggs: \_\_\_\_\_ (print name)  
 34 \_\_\_\_\_ (signature) \_\_\_\_\_ (date)

35  
 36 \_\_\_\_\_  
 37

38 NOTARY ACKNOWLEDGMENT

39  
 40 State of California

1 County of \_\_\_\_\_)

2

3 On \_\_\_\_\_ before me, \_\_\_\_\_  
4 (insert name and title of the officer)

5 personally appeared \_\_\_\_\_,  
6 who proved to me on the basis of satisfactory evidence to be the person(s)  
7 whose name(s) is/are subscribed to the within instrument and acknowledged  
8 to me that he/she/they executed the same in his/her/their authorized capacity,  
9 and that by his/her/their signature(s) on the instrument the person(s), or the  
10 entity upon behalf of which the person(s) acted, executed the instrument.

11

12 I certify under PENALTY OF PERJURY under the laws of the State of  
13 California that the foregoing paragraph is true and correct.

14

15 WITNESS my hand and official seal.

16

17 Signature \_\_\_\_\_ (Seal)

18

19

20

21

22 **California Statutory Forms for Assisted Reproduction, Form 4:**

23

24 Intended Parent(s) Using a Known Sperm and/or Egg Donor(s) to Conceive  
25 a Child

26 Use this form if: You are using a known sperm and/or egg donor(s), or embryo  
27 donation, to conceive a child and you do not intend for the donor(s) to be a  
28 parent.

29

30 Do not use this form if you are conceiving using a surrogate.

31

32 If you do not sign this form or a similar agreement, your sperm donor may be  
33 treated as a parent unless the sperm is provided to a licensed physician and  
34 surgeon or to a licensed sperm bank prior to insemination, or a court finds ~~that~~  
35 ~~there is satisfactory evidence~~ *by clear and convincing evidence* that you planned  
36 to conceive through assisted reproduction and did not intend for the donor to  
37 be a parent, as required by Section 7613(b) of the Family Code. If you do not  
38 sign this form or a similar agreement, your egg donor may be treated as a parent  
39 unless a court finds that there is satisfactory evidence that you planned to

1 conceive through assisted reproduction and did not intend for the donor to be  
2 a parent, as required by Section 7613(c) of the Family Code.

3  
4 The laws about parentage of a child are complicated. **You are strongly**  
5 **encouraged to consult with an attorney about your rights.**

6  
7 \_\_\_\_\_

8  
9 This form demonstrates your intent that your sperm and/or egg or embryo  
10 donor(s) will not be a parent or parents of the child you plan to conceive through  
11 assisted reproduction.

12  
13 I, \_\_\_\_\_ (print name of parent giving birth), plan to use  
14 assisted reproduction to conceive using a sperm and/or egg donor(s) or embryo  
15 donation, and I DO NOT INTEND for the sperm donor and/or egg or embryo  
16 donor(s) to be a parent of the child to be conceived.

17  
18 (If applicable) I, \_\_\_\_\_ (print name of sperm donor), plan  
19 to donate my sperm to \_\_\_\_\_ (print name of parent giving  
20 birth and second parent if applicable) applicable). I am not married and am  
21 not in a registered domestic partnership (including a registered domestic  
22 partnership or a civil union from another jurisdiction) with  
23 \_\_\_\_\_ (print name of parent giving birth), and I DO NOT  
24 INTEND to be a parent of the child to be conceived.

25  
26 (If applicable) I, \_\_\_\_\_ (print name of egg donor), plan to  
27 donate my ova to \_\_\_\_\_ (print name of parent giving birth  
28 and second parent if applicable) applicable). I am not married and am not in  
29 a registered domestic partnership (including a registered domestic partnership  
30 or a civil union from another jurisdiction) with \_\_\_\_\_ (print  
31 name of parent giving birth), or any intimate and nonmarital relationship with  
32 \_\_\_\_\_ (print name of parent giving birth) and I DO NOT  
33 INTEND to be a parent of the child to be conceived.

34  
35 (If applicable) I, \_\_\_\_\_ (print name of intended parent not  
36 giving birth), ~~I INTEND to be a parent of the child that~~  
37 ~~that~~ \_\_\_\_\_ (print name of parent giving birth) will conceive  
38 through assisted reproduction using sperm and/or egg donation and I DO NOT  
39 INTEND to for the sperm donor and/or egg or embryo donor(s) to be a parent.  
40 I consent to the use of assisted reproduction by the person who will give birth.

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SIGNATURES

Intended parent giving birth: \_\_\_\_\_ (print name)  
\_\_\_\_\_ (signature) \_\_\_\_\_ (date)

(If applicable) Sperm Donor: \_\_\_\_\_ (print name)  
\_\_\_\_\_ (signature) \_\_\_\_\_ (date)

(If applicable) Egg Donor: \_\_\_\_\_ (print name)  
\_\_\_\_\_ (signature) \_\_\_\_\_ (date)

(If applicable) Intended parent not giving birth: \_\_\_\_\_ (print name)  
\_\_\_\_\_ (signature) \_\_\_\_\_ (date)

\_\_\_\_\_

NOTARY ACKNOWLEDGMENT

State of California  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged  
to me that he/she/they executed the same in his/her/their authorized capacity,  
and that by his/her/their signature(s) on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of  
California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

1  
2

O