

AB 960 FACT SHEET

**MAJOR CHANGES TO CALIFORNIA'S ASSISTED REPRODUCTION LAW
EFFECTIVE JANUARY 1, 2016**

**AB 960 Redefines Who Is a Parent When Conception is Through Assisted
Reproduction using Donated Eggs and/or Sperm**

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**No doctor involvement is required to ensure a donor
will not be considered a father.**

The new law expands your options for making sure that a donor is treated as a donor and not a father. Until now, when a donor and recipient wanted to be sure that the donor would not be considered a father, the man had to make the sperm donation to a doctor or sperm bank before the recipient used it. Using a doctor still provides that same protection.

But, if no doctor is involved, under the new law, the donor still will be treated as a donor and not a father if either of the following things are true:

- The donor and the recipient agreed in a written document that the donor would not be a parent, and the written document was signed before the child was conceived
- OR**
- A court finds (1) that the child was conceived through assisted reproduction (not sex) and (2) that the donor and the recipient had an oral agreement that the donor would not be a parent. The agreement must have been made before the child was conceived, and there must be clear and convincing evidence to prove these facts.

Marital status no longer defines who is a presumed parent.

Previously, the law provided that a person who consented to the insemination of his or her *spouse or domestic partner* was presumed to be a "natural parent" of any child conceived through the insemination. The new law allows non-marital partners to give the same consent and obtain the status of natural parent.

**An egg donor is not a parent when she donates
to someone other than her partner.**

For the first time, egg donors are defined in the Family Code. A woman is not considered a parent when she donates eggs to someone other than her own spouse or non-marital partner. The only exception is when there is satisfactory evidence that the donor and the recipient intended for the donor to be a parent. (There is no explicit

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requirement of physician involvement, because a physician always will be involved in retrieving eggs.)

When a woman donates eggs to her spouse or non-marital partner, both women are presumed to be parents.

The new law provides optional forms that you can use to record your intentions. You also can have a lawyer prepare agreements for you.

Before moving forward with using donated eggs or sperm, Donors and recipients can use the forms set out in Family Code section 7613.5 to memorialize their intentions about who is and is not a parent. The forms themselves do not establish parentage -- they merely are evidence of intent at the time the insemination occurred. The simple forms that are contained in the Family Code are optional, and you may want to ask a lawyer to prepare a more detailed agreement for you instead, especially if you have specific provisions you want to include, such as plans for contact between a donor and a child, or confidentiality provisions.

It still is very important to get an adoption order or parentage judgment.

It might seem that because of these new rules -- and, for same-sex couples, because of the fact that marriage equality has come to all 50 states -- it no longer is necessary to take court action to protect your family relationships. Unfortunately, that is not true.

The presumptions of parentage that we enjoy here in California -- one based on marriage and the other based on agreeing to use assisted reproduction to have a baby together -- are not the same all over the country. In some places, your parentage can be challenged simply by a showing that you do not have a genetic connection with your child. And if you travel internationally, you can't rely on other countries respecting your birth certificate. In short, parents having children using donated eggs and/or sperm still need to confirm their parentage through an adoption or parentage action as soon as possible after their child is born.

See a lawyer if you have questions!

Although AB960 represents significant progress, the rules and laws relating to assisted reproduction and parental rights are not simple. Relationships are not simple, either, and your situation might not fall within the four corners of these rules. If you have questions or concerns, talk to a lawyer who is experienced in assisted reproduction law.