

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO PARENTAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 584, Hawaii Revised Statutes, is  
2 amended by adding two new sections to part I to be appropriately  
3 designated and to read as follows:

4           "§584-       Uniformity of application and construction.    This  
5 chapter shall be applied and construed to effectuate its general  
6 purpose to make uniform the law with respect to the subject of  
7 this chapter among states enacting it.

8           §584-       Short title.    This chapter may be cited as the  
9 "Uniform Parentage Act".

10          SECTION 2. Chapter 584, Hawaii Revised Statutes, is  
11 amended by adding a new part to be appropriately designated and  
12 to read as follows:

13                   **"PART III. CHILD OF ASSISTED REPRODUCTION**

14           **§584-A Scope of part.** This part does not apply to the  
15 birth of a child conceived by means of sexual intercourse.

16           **§584-B Definitions.** As used in this part:



1 "Assisted reproduction" means a method of causing pregnancy  
2 other than sexual intercourse. "Assisted reproduction"  
3 includes:

- 4 (1) Intrauterine insemination;
- 5 (2) Donation of eggs;
- 6 (3) Donation of embryos;
- 7 (4) In-vitro fertilization and transfer of embryos; and
- 8 (5) Intracytoplasmic sperm injection.

9 "Donor" means a person who produces eggs or sperm used for  
10 assisted reproduction, whether or not for consideration.

11 "Donor" does not include:

- 12 (1) A husband who provides sperm, or a wife who provides  
13 eggs, to be used for assisted reproduction by the  
14 wife;
- 15 (2) A woman who gives birth to a child by means of  
16 assisted reproduction; or
- 17 (3) A parent pursuant to this part.

18 **§584-C Parental status of donor.** Donors of eggs, sperm,  
19 or embryos are not the parents of a child conceived by means of  
20 assisted reproduction.

21 **§584-D Parentage of child of assisted reproduction.** A  
22 person who provides eggs, sperm, or embryos for or consents to



1 assisted reproduction as provided in section 584-E with the  
2 intent to be the parent of a child is a parent of the resulting  
3 child.

4       **§584-E Consent to assisted reproduction.** (a) The  
5 intended parent or parents shall consent to the assisted  
6 reproduction in a record signed by them before the placement of  
7 the eggs, sperm, or embryos. Donors shall also consent to an  
8 assisted reproduction before retrieval of the donors' eggs or  
9 sperm.

10       (b) Failure of a parent to sign a consent required by  
11 subsection (a) does not preclude a finding of parentage if the  
12 parent, during the first two years of the child's life, resided  
13 in the same household with the child and openly held out the  
14 child as the parent's own.

15       (c) All papers relating to the assisted reproduction,  
16 whether part of a court, medical, or any other file, are subject  
17 to inspection only upon an order of the district court or with  
18 the consent, in a signed record, of:

- 19       (1) The donor or donors; and  
20       (2) The parent or parents who consented to the assisted  
21 reproduction pursuant to subsection (a) or a child who  
22 was born as a result of the assisted reproduction



1           pursuant to subsection (a) if the child is eighteen  
2           years of age or older.

3           **§584-F Limitation on husband's dispute of paternity. (a)**

4   Except as otherwise provided in subsection (b), the husband of a  
5   wife who gives birth to a child by means of assisted  
6   reproduction shall not challenge his paternity of the child  
7   unless:

8           (1) Within two years after learning of the birth of the  
9           child, he commences a proceeding to adjudicate his  
10          paternity; and

11          (2) The family court finds that he did not consent to the  
12          assisted reproduction, before or after the birth of  
13          the child.

14          (b) A proceeding to adjudicate paternity may be maintained  
15   at any time if the family court determines that:

16          (1) The husband did not provide sperm for or, before or  
17          after the birth of the child, consent to assisted  
18          reproduction by his wife;

19          (2) The husband and the mother of the child have not  
20          cohabited since the probable time of assisted  
21          reproduction; and



1           (3) The husband never openly held out the child as his  
2                   own.

3           (c) The limitation provided in this section applies to a  
4 marriage dissolved or declared invalid after assisted  
5 reproduction.

6           **§584-G Effect of dissolution of marriage or withdrawal of**  
7 **consent.** (a) If a marriage is dissolved before placement of  
8 eggs, sperm, or embryos, the former spouse or partner is not a  
9 parent of the resulting child unless the former spouse or  
10 partner consented in a signed record that if assisted  
11 reproduction were to occur after a divorce, the former spouse or  
12 partner would be a parent of the child.

13           (b) Unless otherwise agreed in a signed record, the  
14 consent of a woman or a man to assisted reproduction may be  
15 withdrawn by that person in a signed record delivered to the  
16 other person at any time before placement of eggs, sperm, or  
17 embryos if the placement has not occurred within one year after  
18 the consent. A person who withdraws consent pursuant to this  
19 section is not a parent of the resulting child.

20           **§584-H Parental status of deceased person.** If a person  
21 who has consented in a record to be a parent by assisted  
22 reproduction dies before placement of eggs, sperm, or embryos,



1 the deceased person is not a parent of the resulting child  
2 unless the deceased person consented in a signed record that if  
3 assisted reproduction were to occur after death, the deceased  
4 person would be a parent of the child.

5       **§584-I Gestational agreements not authorized or**  
6 **prohibited.** (a) This chapter does not authorize or prohibit an  
7 agreement between a woman and the intended parents:

8       (1) In which the woman relinquishes all rights as the  
9 parent of a child to be conceived by means of assisted  
10 reproduction; and

11       (2) That provides that the intended parents become the  
12 parents of the child.

13       (b) If a birth results pursuant to a gestational agreement  
14 pursuant to subsection (a) and the agreement is unenforceable  
15 under other laws of the State of Hawaii, the parent and child  
16 relationship shall be determined pursuant to part I of this  
17 chapter."

18       SECTION 3. Chapter 584, Hawaii Revised Statutes, is  
19 amended by designating sections 584-1 through 584-3 as part I,  
20 entitled "General Provisions".

21       SECTION 4. Chapter 584, Hawaii Revised Statutes, is  
22 amended by designating sections 584-3.5 through 584-24 as part



1 II, entitled "Parent and Child Relationship; Non-Reproductive  
2 Assisted".

3 SECTION 5. Section 584-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§584-3[+] **How parent and child relationship**  
6 **established.** The parent and child relationship between a child  
7 and:

8 (1) The natural mother may be established by proof of her  
9 having given birth to the child, or as otherwise  
10 established under this chapter;

11 (2) The natural father may be established under this  
12 chapter;

13 (3) The intended parent or parents by consenting to  
14 assisted reproduction pursuant to part III which  
15 resulted in the birth of the child; or

16 ~~[-3-]~~ (4) An adoptive parent may be established by proof of  
17 adoption."

18 SECTION 6. Section 584-25, Hawaii Revised Statutes, is  
19 repealed.

20 [~~§584-25~~] ~~Uniformity of application and construction.~~

21 ~~This chapter shall be applied and construed to effectuate its~~



1 ~~general purpose to make uniform the law with respect to the~~  
2 ~~subject of this chapter among states enacting it."]~~

3 SECTION 7. Section 584-26, Hawaii Revised Statutes, is  
4 repealed.

5 [~~["§584-26] Short title. This chapter may be cited as the~~  
6 ~~"Uniform Parentage Act"."]~~

7 SECTION 8. Sections 584-6, 584-8, 584-11, 584-14, 584-17,  
8 584-20, 584-21, 584-23.5, and 584-24, Hawaii Revised Statutes,  
9 are amended by substituting the words "this part" wherever the  
10 words "this chapter" appears, as the context requires.

11 SECTION 9. If any provision of this Act, or the  
12 application thereof to any person or circumstance is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of the Act, which can be given effect without the  
15 invalid provision or application, and to this end the provisions  
16 of this Act are severable.

17 SECTION 10. In codifying the new sections added by section  
18 2 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.





1 SECTION 11. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 12. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect upon its approval.

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INTRODUCED BY:





**Report Title:**

Uniform Parentage Act; Assisted Reproduction

**Description:**

Amends chapter 584, Hawaii Revised Statutes, to establish rules regarding the parental status of donors of eggs, sperm, or embryos and the requirements of consent to assisted reproduction.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

