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**AB-785 Parentage.** (2019-2020)

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**Assembly Bill No. 785**

**CHAPTER 539**

An act to amend Sections 1635, 1644, 1644.1, 1644.2, 1644.3, 102425, 102750, 102766, and 102768 of the Health and Safety Code, relating to parentage.

[ Approved by Governor October 07, 2019. Filed with Secretary of State October 07, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 785, Bloom. Parentage.

Existing law requires the State Department of Public Health to license and regulate gamete banks, defined as tissue banks that collect, process, store, or distribute gametes, including facilities that provide professional reproductive services. Existing law requires a gamete bank licensed in this state, for gametes collected on or after January 1, 2020, to collect certain identifying information and medical information from a gamete donor, including the donor's full name, date of birth, and address. Existing law also requires a gamete bank to obtain a declaration from the gamete donor stating whether the donor agrees to disclose the donor's identity to a child that results from the donation, upon the child turning 18 years of age and requesting the information.

This bill would require a gamete bank to collect and maintain, in addition to the identifying information and medical information described above, any other contact information provided by the donor at the time of the donation and records of gamete screening and testing. The bill would also require a gamete bank that receives gametes collected by another gamete bank to collect and retain contact information for the gamete bank from which the gametes were received, and to disclose that information to a child that results from the donation, upon the child turning 18 years of age and requesting the information. The bill would exempt from these requirements gametes collected from a donor whose identity is known to the recipient of the gametes at the time of the donation.

Existing law prescribes the duties of the State Registrar of Vital Statistics (State Registrar) and local registrars of births and deaths with respect to the registration of certificates of live birth, fetal death, or death, and marriage licenses. Existing law prescribes the information to be listed on a certificate of live birth. Existing law prohibits, if the parents are not married to each other, the father's name from being listed on the birth certificate unless the father and mother sign a voluntary declaration of paternity at the hospital before the birth certificate is submitted for registration. Existing law prohibits the birth certificate from being amended to add a father's name at a later date unless paternity has been established in court.

This bill, instead, would prohibit the name of the person identified by the woman giving birth as either the only possible genetic parent other than the woman who gave birth or the intended parent of a child conceived through assisted reproduction from being listed on the birth certificate unless the woman who gave birth and the person identified by the woman giving birth as either the only possible genetic parent other than the woman who gave birth or the intended parent of a child conceived through assisted reproduction sign a voluntary declaration of parentage. The bill would authorize the birth certificate to be amended to add another parent's name at a later date only if parentage is established by a court.

This bill also makes technical and conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 1635 of the Health and Safety Code is amended to read:

**1635.** (a) "Department" means the State Department of Public Health.

(b) "Donor" means an individual, living or deceased, from whom tissue is removed.

(c) "Gamete bank" means a tissue bank that collects, processes, stores, or distributes sperm, oocytes, or embryos, including a facility that provides professional reproductive services, other than those facilities exempt from tissue bank licensure.

(d) "Person" means an individual, corporation, business trust, estate trust, partnership, association, state or local government, or subdivision or agency thereof, or any other legal entity.

(e) (1) "Tissue" means a human cell, group of cells, including the cornea, sclera, or vitreous humor and other segments of, or the whole eye, bones, skin, arteries, sperm, oocytes, embryos, blood, other fluids, and any other portion of a human body, but shall not include an organ when recovered for transplantation or research purposes.

(2) For purposes of paragraph (1), "organ" means a human kidney, liver, heart, lung, pancreas, intestine (including the esophagus, stomach, small or large intestine, or any portion of the gastrointestinal tract), or vascularized composite allograft, and associated blood vessels recovered from an organ donor during the recovery of the organ.

(f) "Tissue bank" means a place, establishment, or institution that collects, processes, stores, or distributes tissue for transplantation into human beings.

(g) "Transplantation" means the act or process of transferring tissue, including by ingestion, from a donor to the body of the donor or another human being.

### **SEC. 2.** Section 1644 of the Health and Safety Code is amended to read:

**1644.** (a) For purposes of this chapter, "donor," "person," "tissue," "transplantation," and "department" shall have the meaning as defined for those terms in Section 1635.

(b) For purposes of this chapter, "HIV" shall mean human immunodeficiency virus.

(c) "Identifying information" means the full name of the donor, the donor's date of birth, and the permanent address or other contact information, or both, given at the time of donation, or, if different, the current address or other contact information, or both, of the donor retained by the gamete bank.

(d) "Medical information" means information regarding a present illness of the donor, past illness of the donor, and social, genetic, and family history of the donor.

### **SEC. 3.** Section 1644.1 of the Health and Safety Code is amended to read:

**1644.1.** (a) A gamete bank licensed in this state shall collect and retain from a gamete donor the donor's identifying information and medical information at the time of the donation. A gamete bank licensed in this state that receives gametes from a donor collected by another gamete bank shall collect and retain the name, address, telephone number, and email address of the gamete bank from which the gametes were received.

(b) A gamete bank licensed in this state shall disclose the information collected under subdivision (a) as provided in Section 1644.3.

(c) This section does not apply to gametes collected from a donor whose identity is known to the recipient of the gametes at the time of the donation.

(d) This section shall apply only to gametes collected on or after January 1, 2020.

### **SEC. 4.** Section 1644.2 of the Health and Safety Code is amended to read:

**1644.2.** (a) A gamete bank licensed in this state that collects gametes from a donor shall do all of the following:

(1) Provide the donor with information in a record about the donor's choice regarding identity disclosure.

(2) Obtain a declaration from the donor regarding identity disclosure.

(3) Maintain identifying information and medical information about each gamete donor. The gamete bank 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 licensed in this state shall give a donor the choice to sign a declaration, attested by a notary or witnessed, that does either of the following:

(1) States that the donor agrees to disclose the donor's identity to a child conceived by assisted reproduction with the donor's gametes, on request, once the child attains 18 years of age.

(2) States that the donor does not agree presently to disclose the donor's identity to the child.

(c) A gamete bank licensed in this state shall permit a donor who has signed a declaration that the donor does not agree to disclose the donor's identity under paragraph (2) of subdivision (b) to withdraw the declaration at any time by signing a declaration that the donor agrees to disclose the donor's identity under paragraph (1) of subdivision (b).

(d) A gamete bank licensed in this state is not required to collect gametes from a donor who does not agree to disclose the donor's identity under paragraph (2) of subdivision (b).

(e) This section does not apply to gametes collected from a donor whose identity is known to the recipient of the gametes at the time of the donation.

(f) This section shall apply only to gametes collected on or after January 1, 2020.

**SEC. 5.** Section 1644.3 of the Health and Safety Code is amended to read:

**1644.3.** (a) On request of a child conceived by assisted reproduction using donor gametes who attains 18 years of age, a gamete bank licensed in this state that collected the gametes used in the assisted reproduction shall provide the child with identifying information of the donor who provided the gametes, unless the donor signed and did not withdraw a declaration under paragraph (2) of subdivision (b) of Section 1644.2. If the donor signed and did not withdraw the declaration, the gamete bank shall make a good faith effort to notify the donor, who may elect under subdivision (c) of Section 1644.2 to withdraw the declaration and agree to release the donor's information.

(b) On request of a child conceived by assisted reproduction using donor gametes who attains 18 years of age, a gamete bank licensed in this state that received the gametes used in the assisted reproduction from another gamete bank shall disclose the name, address, telephone number, and email address of the gamete bank from which the gametes were received.

(c) Regardless whether a donor signed a declaration under paragraph (2) of subdivision (b) of Section 1644.2, on request from a child conceived by assisted reproduction using donor gametes who attains 18 years of age, or, if the child is a minor, by a parent or guardian of the child, a gamete bank licensed in this state that 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 information provided by the donor.

(d) This section does not apply to gametes collected from a donor whose identity is known to the recipient of the gametes at the time of the donation.

(e) This section shall apply only to gametes collected on or after January 1, 2020.

**SEC. 6.** Section 102425 of the Health and Safety Code is amended to read:

**102425.** (a) The certificate of live birth for a live birth occurring on or after January 1, 2016, shall contain those items necessary to establish the fact of the birth and shall contain only the following information:

(1) Full name and sex of the child.

(2) Date of birth, including month, day, hour, and year.

(3) Place of birth.

(4) Full name, birthplace, and date of birth of each parent, including month, day, and year, and the parental relationship of the parent to the child.

(A) The full name of the mother shall be the birth name of the mother.

(B) If the birth mother is one of the parents listed on the certificate of live birth, the birth mother's name shall be placed on the second parent line.

(C) If the parents are not married to each other, the name of the person identified by the woman giving birth as either the only possible genetic parent other than the woman giving birth or the intended parent of a child conceived through assisted reproduction shall not be listed on the birth certificate unless the woman who gave birth to the child and either the only possible genetic parent other than the woman who gave birth or the intended parent of a child conceived through assisted reproduction sign a voluntary declaration of parentage at the hospital before the birth certificate is submitted for registration. The birth certificate may be amended to add another parent's name at a later date only if parentage for the child has been established by a judgment of a court of competent jurisdiction or by the filing of a voluntary declaration of parentage.

(5) Multiple births and birth order of multiple births.

(6) Signature, and relationship to the child, of a parent or other informant, and date signed.

(7) Name, title, and mailing address of the attending physician and surgeon or principal attendant, signature, and certification of live birth by the attending physician and surgeon or principal attendant or certifier, date signed, and name and title of the certifier, if other than the attending physician and surgeon or principal attendant.

(8) Date accepted for registration and signature of local registrar.

(9) A state birth certificate number and local registration district and number.

(10) A blank space for entry of the date of death with a caption reading "Date of Death."

(b) In addition to the items listed in subdivision (a), the certificate of live birth shall contain the following medical and social information, provided that the information is kept confidential pursuant to Sections 102430 and 102447 and is clearly labeled "Confidential Information for Public Health Use Only:"

(1) Birth weight.

(2) Pregnancy history.

(3) Race and ethnicity of the mother and any other parent.

(4) Residence address of the birth mother.

(5) A blank space for entry of census tract for the birth mother's address.

(6) Date of first prenatal care visit, the number of prenatal care visits, and commencing January 1, 2007, the date of last prenatal care visit.

(7) Date of last normal menses and, commencing January 1, 2007, an obstetric estimate of completed weeks of gestation at delivery.

(8) Description of complications and procedures of pregnancy and concurrent illnesses, congenital malformation, and any complication or procedure of labor and delivery, including surgery, provided that this information is essential medical information and appears in total on the face of the certificate.

(9) Commencing January 1, 2007, hearing screen results.

(10) The occupations of the mother and father or parent and kind of business or industry.

(11) Education level of the mother and father or parent.

(12) Principal source of payment for prenatal care, which shall include the following: Medi-Cal, private insurance, self-pay, other sources, and any other categories determined by the State Department of Public Health.

(13) Expected principal source of payment for delivery, which shall include the following: Medi-Cal, private insurance, self-pay, other sources, and any other categories determined by the State Department of Public Health.

(14) An indication of whether or not the child's parent desires the automatic issuance of a social security number to the child.

(15) On and after January 1, 1995, the social security numbers of the mother and father or parent, unless subdivision (d) applies.

(c) When an objection is made by either parent to the furnishing of the information specified in paragraphs (3), (10), and (11) of subdivision (b) for the confidential portion of the certificate of live birth, this information shall not be required to be entered on that portion of the certificate of live birth.

(d) A parent is not required to disclose the parent's social security number as required by paragraph (15) of subdivision (b) if the parent has good cause for not disclosing the parent's social security number. Good cause shall be defined by regulations adopted by the Department of Child Support Services.

(e) Paragraph (8) of subdivision (b) shall be completed by the attending physician and surgeon or the attending physician and surgeon's designated representative. The names and addresses of children born with congenital malformations who require followup treatment, as determined by the child's physician and surgeon, shall be furnished by the physician and surgeon to the local health officer, if permission is granted by either parent of the child.

(f) The parent shall only be asked to sign the form after both the public portion and the confidential medical and social information items have been entered upon the certificate of live birth.

(g) (1) The State Registrar shall instruct all local registrars to collect the information specified in this section with respect to certificates of live birth. The information shall be transcribed on the certificate of live birth in use at the time and shall be limited to the information specified in this section.

(2) Information relating to concurrent illnesses, complications and procedures of pregnancy and delivery, and congenital malformations shall be completed by the physician and surgeon, or the physician and surgeon's designee, who shall insert in the space provided on the confidential portion of the certificate the appropriate number or numbers listed on the VS-10A supplemental worksheet. The VS-10A supplemental form shall be used as a worksheet only and shall not in any manner be linked with the identity of the child or the birth mother, nor submitted with the certificate to the State Registrar. All information transferred from the worksheet to the certificate shall be fully explained to the parent or other informant prior to the signing of the certificate. Questions relating to drug or alcohol abuse shall not be asked.

(h) (1) The Vital Statistics Advisory Committee, in accordance with Section 102465, shall conduct a review of the contents of the certificate of live birth to coincide with decennial revisions by the National Center for Health Statistics to the United States Standard Certificate of Live Birth. The Vital Statistics Advisory Committee shall make recommendations to the State Registrar regarding the adoption of modifications to the state certificate of live birth that are similar to those made to the federal certificate.

(2) Notwithstanding Section 102470, the State Registrar shall review the Vital Statistics Advisory Committee recommendations and, at the State Registrar's discretion, shall submit to the Legislature, for approval, additions or deletions to the certificate of live birth.

**SEC. 7.** Section 102750 of the Health and Safety Code is amended to read:

**102750.** Whenever the mother and the other genetic parent or intended parent acknowledges parentage of a child by affidavit, and in the absence of conflicting information on the originally registered certificate of live birth, an application including the affidavits may be filed with the office of the State Registrar upon a form provided for that purpose.

**SEC. 8.** Section 102766 of the Health and Safety Code is amended to read:

**102766.** (a) When a voluntary declaration of parentage is filed with the Department of Child Support Services pursuant to subdivision (d) of Section 7571 of the Family Code, an application may be submitted to the State Registrar requesting that the signatory's name be added to the child's birth certificate.

(b) Upon receipt of the application and payment of the required fee, the State Registrar shall review the application for acceptance for filing and, if accepted, shall establish a new birth certificate for the child in the manner prescribed in Article 1 (commencing with Section 102625), if the original record of birth is on file in the office of the State Registrar.

**SEC. 9.** Section 102768 of the Health and Safety Code is amended to read:

**102768.** All records and information specified in this article, other than the newly established certificate, shall be available only to those persons specified in subdivision (i) of Section 7571 of the Family Code or upon order of a court of record.