

Who's the Legal Parent?

In *Adoptive Families'* new legal column, a reader is advised to check local state law when considering assisted reproductive technology

DEAR ADOPTIVE FAMILIES:

My husband and I are considering trying to become pregnant by using a donated egg and my husband's sperm. The embryo would be implanted in my uterus and I would carry the pregnancy. If we are successful and end up with a baby, will my husband be the legal father to the child? Will I have to adopt because the child will not be related to me genetically? What is the egg donor's relationship to the child?

From a subscriber in New York

In most cases, the egg donor will have no legal relationship to the child. You and your husband will be the legal parents and you will not have to adopt the child. However, state laws vary widely and many states have not kept up with medical advances. While some states have statutes controlling egg donation and other reproductive technology, other states are silent on these issues. Thus, if you are considering egg donation or another form of assisted reproductive technology, the answer to your questions depends on the applicable state law.

To be safe, consult an attorney in your state who is knowledgeable about assisted reproductive technology law. The attorney will be able to draft one or more contracts under the appropriate state laws to protect the

rights of all of the parties involved.

Some families become so focused on becoming pregnant that they do not fully consider the longer-term implications of using donor eggs. Although anonymous donation of eggs is a common practice, I do not advise it for several reasons. Foremost among them is access to ongoing medical information in years to come, information that might prove vital to your child one day. Secondly, your child may well want to identify the donor at some future point in her life. AF

Amy Silberberg, J.D., is an attorney based in Afton, Minnesota. Her practice is limited to adoption and assisted reproductive technology law. She and her husband Chaim are the proud adoptive parents of Maggie, 6 and Sam, 10.

Resources

The Organization of Parents Through Surrogacy (OPTS) provides information, support and advocacy for families and surrogates. Telephone: 847-782-0224; email: Director@opts.com; website: www.opts.com

RESOLVE provides education and support to people experiencing infertility. Their website provides referrals to physicians and clinics. Telephone: 617-623-0744; email: resolveinc@aol.com; website: www.resolve.org

The American Surrogacy Center (TASC) provides a variety of surrogacy related information and services, including classified advertising, a listing of state surrogacy laws and on-line support groups. E-mail: tasc@surrogacy.com; Website: www.surrogacy.com

To find an attorney qualified to assist you with surrogacy, contact the American Academy of Adoption Attorneys (AAAA). Telephone: 202-832-2222; website: www.adoptionattorneys.org