Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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Statement of Libby Snyder, Legislative Counsel at the Uniform Law Commission, to the House Judiciary Finance and Civil Law Committee in Support of HF 3567 – Enacting the Uniform Parentage Act (2017).

Public Hearing of March 19, 2024

Chair Becker-Finn and Members of the Committee:

Thank you for considering HF 3567, enacting the Uniform Parentage Act, promulgated by the Uniform Law Commission (ULC) in 2017. The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable.

The ULC is composed of Commissioners on Uniform State Laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. All commissioners are members of the bar. The governors of the states and other appointing authorities have appointed lawyers in private or public practice, judges, legislators, and law school professors as commissioners.

The state of Minnesota has a long history of enacting uniform acts, including the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Trade Secrets Act, the Uniform Transfers to Minors Act, and the Uniform Parentage Act of 1973, as well as others.

The Uniform Parentage Act was first promulgated in 1973, but the ULC's first efforts in this subject matter occurred over 100 years ago with the drafting of the Uniform Illegitimacy Act (1922). The Conference followed that with the Blood Tests to Determine Paternity Act (1952), the Uniform Paternity Act (1960), and certain provisions of the Uniform Probate Code (1969). However, uniform laws in this subject matter area did not see wide enactment in state legislatures until the ULC drafted the Uniform Parentage Act in 1973.

The Uniform Parentage Act was updated in 2002 to add provisions permitting a non-judicial acknowledgment of paternity procedure that is the equivalent of an adjudication of parentage in a court. The Uniform Parentage Act was updated again in 2017 to account for advancements in technology related to genetic testing and assisted reproduction and constitutional developments regarding marriage. Overall, the Uniform Parentage Act at large has been quite influential – laws in roughly half the states are based on variations of the Uniform Parentage Act.

Minnesota's current statutory law regarding artificial insemination was first enacted in 1980 and last updated in 1987.[1] Over the last several decades, medical science has developed a wide array of assisted reproductive technology, often referred to as ART. Currently, Minnesota statute does not provide clear rules to determine parentage in a variety of situations that are common when using assisted reproductive technology. Article 7 of the Uniform Parentage Act (2017) provides clarity in the following situations:

- How an individual who intends to be a parent of the child can give consent to assisted reproduction and how that consent can be used to establish that individual's parentage of the child conceived by assisted reproduction;
- When a spouse of a woman who gave birth to a child by assisted reproduction may challenge the individual's parentage;
- What effect the termination of the intended parents' marriage has on the parentage of a child conceived by assisted reproduction if the termination of marriage happens before the transfer of gametes or embryos;
- Whether and how an individual who consented to assisted reproduction and intended to be a parent of any resulting child may withdraw consent to assisted reproduction; and
- How to determine the parentage of a child conceived by assisted reproduction if the intended parent dies during the period between the transfer of a gamete or embryo and the birth of the child.

In addition, Minnesota has no statutes specifically permitting or prohibiting surrogacy agreements. Article 8 of the Uniform Parentage Act (2017) provides comprehensive statutory guidance that reflects the developments that have occurred in surrogacy practice over the last twenty years. The UPA (2017) also includes a new article – Article 9 – that addresses the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers.

It is my understanding that HF 3567 is going to be amended to include only Articles 7 (assisted reproduction), 8 (surrogacy agreements), and 9 (information about donor) of the Uniform Parentage Act (2017). Enacting these articles would be a big step forward in the fight to provide equal treatment under the law to all Minnesotans, but it is important to stress that this is only the first step. It is crucial that a bill to enact Articles 1 to 6 of the Uniform Parentage Act (2017) is introduced next legislative session. Some important reasons why Minnesota should adopt the entire Uniform Parentage Act (2017) include:

- **To provide clarity for and reduce unnecessary litigation regarding children born to same-sex couples.** UPA (2002) and UPA (1973) used gendered terms and its provisions

[1] M.S.A. § 257.56

presumed that couples consist of one man and one woman. As a result, the provisions did not provide clear guidance about their application to children born to same-sex couples. UPA (2017) provides needed clarity for this group of children and their families.

- **To cure potential constitutional infirmity in existing state law.** In *Obergefell*, the United States Supreme Court held that laws barring marriage between two people of the same sex are unconstitutional. After *Obergefell*, some state parentage laws that treat same-sex couples differently than different-sex couples may be unconstitutional. By adopting UPA (2017), Minnesota can make sure that state law does not run afoul of important constitutional protections.

- **To clarify and codify state law related to de facto parentage.** Most states extend at least some parental rights to people who, while not biological parents, functioned as parents with the consent of the child's legal parent. Some states recognize such people under a variety of equitable doctrines. Other states extend rights to such people through broad third-party custody and visitation statutes. The UPA (2017) adds clarity to this issue across the states by expressly codifying the recognition of de facto parentage in a uniform statutory scheme. This is consistent with the current trend and is consistent with a core purpose of the UPA, which is to protect established parent child relationships. At the same time, however, the UPA (2017) erects safeguards to ensure that these provisions do not result in unwarranted or unjustified litigation.

Minnesota's statutes must be updated to provide comprehensive guidance to individuals who wish to build their families by using assisted reproductive technology. If passed, HF 3567 will be an important first step in modernizing parentage law in Minnesota. I ask for your support to advance this important legislation and to revisit the remaining sections of the Uniform Parentage Act (2017) next legislative session. Thank you for your time and consideration.

Libby Snyder
Legislative Counsel
Uniform Law Commission

March 19, 2024

To: Chair Rep. Jamie Becker-Finn and MN House Judiciary Finance and Civil Law Committee

We write with urgency and concern regarding bill H.F. 3567, the Uniform Parentage Act, which would officially legalize, and in effect promote, the harmful practice of surrogacy in the state of Minnesota. Instead, Minnesota should work to stop surrogacy in all forms, both traditional and gestational surrogacy are harmful practices that use a woman for womb and discarded her after the baby is born.

Infertility is a heartbreaking condition affecting those who desire to have children. However, the pain and grief that infertility causes does not justify the harmful, exploitive nature of the surrogacy industry. We in no way minimize the heartache that comes from infertility, but we must not harm women and children in our quest to help some! Minnesotans might think, in a state with no existing legal framework for surrogacy, that the Uniform Parentage Act will protect women and children, but it will not. Instead, it will turn Minnesota into a hub for reproductive tourism where all types of people, foreign and domestic, can use and exploit Minnesotan women.

The practice of surrogacy deeply regressive. The surrogate mother is used for her womb and is then set aside. Just this week I spoke with a surrogate mother in California that felt as if she was trafficked after completing her commercial surrogacy arrangement. She stated in an interview with me, “It actually destroyed me. It's almost like the world caved in on me. I had this moment of realization of, ‘oh my God, what the hell just happened to me?’ I was dismissed. I was treated like garbage.” She continued, “You have to be ready to be nothing but a womb, and I don't think women are told the reality of that. You do not exist.” Many developed countries have prohibited commercial surrogacy on human rights and women’s health grounds because surrogacy often depends on the exploitation of low income and poor women by those with means to pay for surrogacy. The European parliament stated in 2011 that surrogacy is “an exploitation of the female body and her reproductive organs.” They have also stated very simply that surrogacy is, “violence against women.” More recently, in January 2024, Belgian presidency of the Council and representatives of the European Parliament reached a provisional agreement to add surrogacy as a type of exploitation covered by the EU’s anti-trafficking law.

Not only is the surrogate discarded after delivery, but the important bond between the infant and birth mother (surrogate mother) is treated as if it were important during the pregnancy, and completely irrelevant afterwards. Even though we know that the maternal-fetal bond is incredibly important in the fourth trimester, as the baby adjusts to time outside the womb. One of the best practices for mother and baby is breastfeeding. In 1991, WHO and UNICEF launched a global effort to implement practices to protect, promote, and support breast-feeding called the Baby-friendly Hospital Initiative (BFHI).[1] It is well understood that skin to skin with the birth mother in the golden hour after delivery promotes this initiative, surrogacy does not. This is only

[1] Geneva: World Health Organization; 2009.

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one area where deleterious effects of separating an infant from a birth mother are directly observed in surrogacy.

Recent research has also shown that there are serious medical and psychosocial risks that gestational surrogacy confers onto women who serve as surrogates and to the babies they carry for another person or couple.

By itself, in vitro fertilization (IVF) is not without its share of risks and complications, coupled with a very high failure rate of a very costly procedure. IVF can be deleterious on a woman's health and new studies are exploring the dangerous effects on the children born through this technology as well. A 2021 study found that "children conceived by assisted reproductive technology (ART) had statistically significantly worse outcomes in left ventricular function and structure." The article further stated that "children conceived by ART had increased blood pressure and unfavorable changes in left ventricular structure and function compared with children who were naturally conceived."[2]

Not only does surrogacy have risks associated with the IVF procedure, research has shown that surrogate pregnancies are high-risk pregnancies and are more likely to result in cesarean section, maternal gestational diabetes, hypertension or preeclampsia, placenta previa, and other life-threatening complications like postpartum depression.[3,4] Children born from IVF have increased incidences of pre-term birth, low birth weight, cerebral palsy, and other conditions that result in NICU admissions and longer hospital stays.[4] There have even been confirmed deaths of surrogate mothers in both the United States and abroad. Most people are unaware that a surrogate pregnancy, even if the surrogate is only carrying one baby, is a higher-risk pregnancy. Of course, high-risk pregnancies put mother and baby(ies) at risk. Dr. Anthony Diehl, an Ob/Gyn doctor in Rapid City talks about the conflicts of interest when a physician is taking care of a surrogate mother but is being paid by the people who intend the raise the child. Let us remind you that the U.S. has one of the highest maternal mortality rates in the developed world, having doubled from 1991 to 2014, and is the only developed country whose maternal mortality rate is rising.

Finally, we should all pause and consider if we want to create a world where we market human beings. Jessica Kern, a woman who found out at 16 that she was a product of gestational surrogacy, writes "I think commercial surrogacy is wrong. It really is the buying and selling of babies, and the commodification of women's bodies."[5] Do children conceived from surrogacy contracts feel like Jessica Kern? We don't know because, to date, there is no research on how offspring of surrogacy feel about their origins. Jessica continues in her story, "I think that there is a very important voice missing from the ongoing cultural debate over surrogacy: the voices of the children themselves."[4] Until we hear from the children, surrogacy will continue to be

2. Cui L, Zhao M, Zhang Z, Zhou W, Lv J, Hu J, Ma J, Fang M, Yang L, Magnussen CG, Xi B, Chen ZJ. Assessment of Cardiovascular Health of Children Ages 6 to 10 Years Conceived by Assisted Reproductive Technology. JAMA Netw Open. 2021 Nov 1;4(11):e2132602. doi: 10.1001/jamanetworkopen.2021.32602. PMID: 34735014; PMCID: PMC8569486.
3. https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1311&context=dignity
4. https://www.fertstert.org/article/S0015-0282(17)31941-6/fulltext
5. https://www.legalizesurrogacywhynot.com/jessica-kern-story

"unashamedly, an adult or parent-centered view, with the basic human rights of newborn babies ignored."[6]

Allowing some people to buy other people, even if they are young and small, is not a pro-liberty policy. Legislation, as a matter of good public policy, should help and protect citizens. As we seek to assist those who long for a family, we must realize that some of these very costly solutions offered carry real risks to women and children. Minnesota would do better to create law that bans all forms of surrogacy, especially commercial surrogacy where the surrogate mother is paid for her "services", in order to protect the lives of women and children, valuing each as a human life, not a womb to rent or a product for sale.

Jennifer Lahl, R.N., B.S.N, M.A.
Founder, The Center for Bioethics and Culture

Kallie Fell, R.N., B.S.N., M.S.
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6. Klein, R. (2017). Surrogacy: A human rights violation.

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Dear Chair Becker-Finn and Members,

My name is Katy Faust, I am the founder and President of Them Before Us—a nonprofit committed to defending children's rights to their mothers and fathers. I am writing in opposition HF 3567 because of the significant and lasting harm that they pose to Minnesota's most vulnerable citizens—children. I urge you to consider their rights and the suffering that arises when these rights are violated.

Under this bill, what makes someone the parent of a child is not the natural biological bond that exists between them, nor adoption—an arrangement that is designed with the *child's* best interest in mind and thus requires rigorous background checks and screening of the adults involved. Rather, it establishes parentage on the basis of *intent.* This change renders children as commodities to be awarded to any adults with the money and means to acquire them.

Donor conception and surrogacy arrangements privilege the wishes of adults over the rights and needs of children. We urge you to consider the voices of those who have been most affected by these practices. Research has found that 70% of donor-conceived adults believed that society should not encourage gamete donation and 62% said that they found the commercial nature of gamete donation to be unethical.[1]

Ellie, a woman who was conceived via sperm donation, wrote,

> I hate my conception… Why is it legal for a doctor to allow a child to be created with the purpose of being cut off from biological family to make the recipient parents happy? The process commodifies real human beings.
>
> I've been involved in the state foster care system for about two decades, a system which encourages keeping families together and tries to support keeping children with their blood relatives unless there is a severe safety issue. Children thrive best with their biological families, even when those families need extra help, something our government recognizes within the foster system. Unfortunately, I was born as the result of a profit-driven medical clinic selling parental rights without regard for what is best for the end product, the child produced.

Surrogacy takes this violation of children's rights a step further. If a child of surrogacy is one of the 7% of lab-created babies given a chance at life,[2] she will lose the only person she has ever known moments after birth.[3] Mother-child bonding begins in utero. By the time a baby is born,

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[1] https://bioethics.hms.harvard.edu/journal/donor-technology
[2] https://www.reuters.com/article/us-fertility/conception-is-a-rare-event-fertility-study-shows-idUSTRE69O50T20101025/
[3] https://simplesurrogacy.com/blog/what-can-a-surrogate-expect-in-the-delivery-room/ and https://surrogate.com/surrogates/pregnancy-and-health/surrogacy-birth-experience/

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she knows her mother's voice[4] and smell[5] and has been responding to her emotions.[6] Studies show that maternal separation—something that every child of surrogacy experiences—is a major physiological stressor for an infant[7] and even brief maternal deprivation can alter the structure of the infant's brain.[8] These effects can last into adulthood.

It is one thing for a child to experience this "primal wound" due to tragedy. It is something else entirely when this trauma is inflicted purposefully and commercially. The adults involved may have consented to the terms of the contract, but a child never consents to this trauma and loss.

The only other instances where a child endures this primal wound loss is via maternal death, or when the birth mother places the child for adoption because she cannot or will not afford the baby the care s/he deserves. Adoption is a just society's response to maternal loss. Surrogacy is an injustice that requires children to undergo loss not due to tragedy, but adult intentionality. Consider the differences between these arrangements:

- In adoption, direct payments to birth parents are prohibited—that is child trafficking. The fertility industry is built on direct payments to genetic and birth parents.
- In adoption, kinship and family ties are prioritized. In surrogacy, kinship and family ties are routinely disregarded.
- Adoption requires rigorous background checks and screening of prospective parents. The fertility industry has no such vetting of "intended" parents.
- Adoption upholds the rights of children; the fertility industry victimizes them.

One individual born via a surrogacy arrangement wrote,

> To be raised by two persons who you were once cells of, by a woman who you bonded with when growing in her tummy, to be birthed into the world to both these creators and be made not from cash but from mutual love from all parties…is natural and beautiful. But I was denied this primal family structure to support a business and an unfamiliar infertile couple.[9]

Even when a child of surrogacy is raised by their genetic parents, they still experience the trauma of maternal loss when they are separated from their birth mother. Additionally, they still

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[4] "Newborn Senses." *Stanford Medicine Children's Health - Lucile Packard Children's Hospital Stanford,* www.stanfordchildrens.org/en/topic/default?id=newborn-senses-90-P02631. Accessed 8 Dec. 2023.

[5] Vaglio, Stefano. "Chemical Communication and mother-infant recognition." *Communicative & Integrative Biology*, vol. 2, no. 3, 2009, pp. 279–281, https://doi.org/10.4161/cib.2.3.8227.

[6] Semeia, Lorenzo, et al. "Impact of maternal emotional state during pregnancy on fetal heart rate variability." *Comprehensive Psychoneuroendocrinology*, vol. 14, 14 May 2023, p. 100181, https://doi.org/10.1016/j.cpnec.2023.100181.

[7] Morgan, Barak E., et al. "Should neonates sleep alone?" *Biological Psychiatry*, vol. 70, no. 9, 2011, pp. 817–825, https://doi.org/10.1016/j.biopsych.2011.06.018.

[8] "Even Brief Maternal Deprivation Early in Life Alters Adult Brain Function and Cognition: Rat Study." *ScienceDaily*, ScienceDaily, 3 May 2018, www.sciencedaily.com/releases/2018/05/180503142724.htm.

[9] https://thembeforeus.com/ellie/

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feel the commodification of being exchanged for money. Brian, a child of surrogacy wrote, "Babies are not commodities. Babies are human beings. How do you think this makes us feel to know that there was money exchanged for us?" Olivia, another child of surrogacy put it this way: "I lived it as an abandonment. I feel as if I was abandoned by my birth mother…. There's nothing worse than for a child to feel that at one moment in my life I was literally sold for a check."

Children are people, not products to be commissioned, swapped, sold, or traded under contract. They deserve to have their rights protected. I urge you to consider the perspectives of the individuals who have been harmed by these practices and consider the ways that this legislation would harm others like them. As one donor-conceived individual put it, "Third-party reproduction is not a new way to create families; it's a new way to rip them apart."[10]

Sincerely,
Katy Faust
Founder & President
Them Before Us

[10] https://ifstudies.org/blog/the-overlooked-fatherless-one-donor-conceived-womans-story

March 17, 2024

Chair Jamie Becker-Finn
559 State Office Building
St. Paul, MN 55155

Dear Chair Becker-Finn and Members of the House Judiciary Committee:

OutFront Minnesota writes in support of HF 3567 (Hollins). OutFront Minnesota, founded in 1987, is the state's largest LGBTQ+ advocacy organization that has sought to build power within Minnesota's LGBTQ+ communities and address inequities through intersectional organizing, advocacy, education, and direct support services. We believe that this legislation is needed to update state law to reflect the modern composition of Minnesota families and the diverse ways that families are created in our state.

Many LGBTQ+ parents in Minnesota currently face significant obstacles to full recognition as parents of their own children. LGBTQ+ parents often must go through "second parent adoption" processes in order to become legal parents to their children. These processes are lengthy, costly, and place undue stress on parents and their children. The absence of a more effective alternative also makes children in LGBTQ+ families more vulnerable, as only one of their two parents is fully recognized under law. Children may face situations in which their unrecognized parent is unable to make emergency health decisions on their behalf or travel alone with them out of the state or the country.

HF 3567 draws from recommendations of the 2017 Uniform Law Commission, a broad and expert stakeholder group - including family law attorneys, child protection officials and public health experts - who came together to create a best-practice framework to establish parent-child relationships in state law. Uniform Parentage Acts similar to HF 3567 have been passed in seven other states since 2017 (and introduced in three others besides Minnesota). HF 3567 as amended begins the process of adopting these recommendations to Minnesota law.

HF 3567 as amended focuses on a few key provisions that provide a more clear, efficient pathway to legal parentage. HF 3567 ensures that children born through assisted reproduction technology (such as in vitro fertilization) have a clear route to establish their parentage. It provides clear standards for establishing parentage through gestational surrogacy. And it ensures equality for LGBTQ+ families so they can establish their parentage like other families, without costly and onerous legal procedures.

Marriage equality became law in Minnesota in 2013. The United States Supreme Court held in 2015 (*Obergefell v. Hodges*) that laws barring marriage between two people of the same sex are unconstitutional. Now, a decade later, it is time for Minnesota's laws to reflect these decisions and fully recognize LGBTQ+ families in Minnesota. We look forward to continuing to work in future sessions to adopt changes that will ensure Minnesota's parentage laws reflect the needs of all families in our state.

Thank you to Representative Hollins for her leadership on moving forward legislation to achieve that goal. OutFront Minnesota respectfully urges your support for HF 3567.

Sincerely,

Kat Rohn
Executive Director

March 18, 2024

VIA E-EMAIL

anna.borgerding@house.mn.gov

RE: HF 4564/3567/3567A3/3567DE1 and SF 3504

TO: Members of the House Judiciary, Finance, and Civil Law Committee

I write in support of the above referenced bills that have been introduced in both the Senate and House of Representatives addressing several aspects of assisted reproduction. Because of my upcoming trial schedule, I am unable to appear at this week's hearing where this legislation will be considered. I ask that this written submission be considered by the Committee in lieu of my live testimony.

I am an attorney licensed in the state of Minnesota since 1987. I have practiced exclusively in the area of family law since 1991. A significant portion of my practice has involved me in all aspects of assisted reproduction, including the drafting of artificial insemination contracts, egg donor, sperm donor, and embryo donor contracts, gestational and genetic surrogacy contracts, and pleadings needed for the parentage proceedings involving all of these assisted reproduction processes. In my legal work, I have represented donors of genetic material, recipients of genetic material, intended parents, and surrogates, as well as having advised fertility clinics, surrogacy agencies, and related professionals working in the area of assisted reproduction. In addition to being a shareholder with the Minneapolis-based law firm of Messerli & Kramer, P.A. and the chair of its Family Law Practice Group, I am a fellow in the Academy of Assisted Reproduction and Adoption Attorneys and an adjunct professor at the University of Minnesota Law School where I teach the Family Law Capstone course, which includes units on assisted reproduction.

More than a year ago I convened a group of several other attorneys who also practice extensively in the area of assisted reproduction, along with the owner of a local surrogacy agency, to consider the need for the enactment of a comprehensive statute in our state addressing assisted reproduction. Our purpose was to meet on a regular basis in order to consider the portions of the Uniform Parentage Act of 2017 (UPA 2017) that specifically addressed parentage resulting from assisted reproduction and that we all felt provided a very good model for such comprehensive assisted reproduction legislation. Assisted reproduction has been occurring in Minnesota for many years, despite the only statutory provision addressing any aspect of this process being a rather antiquated artificial insemination statute found in Minn. Stat. § 257.56. We have only one appellate court decision in Minnesota that has directly addressed parentage in the assisted reproduction context; this was a nonprecedential Minnesota Court of Appeals decision that resolved a dispute between a gestational surrogate and an unmarried intended parent who had also contracted with an egg

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donor. In this case, the Minnesota Court of Appeals acknowledged the lack of statutory law in Minnesota addressing surrogacy arrangements, but went on to enforce the contract between the parties and indicated that such contracts were not against the public policy of this state. In re the Paternity and Custody of Baby Boy A., No. A07-452, 2007 WL 4304448 (Minn. Ct. App. Dec. 11, 2007). While the Minnesota Supreme Court has declined to weigh in on the substantive law regarding assisted reproduction in general and surrogacy specifically, it has issued a procedural directive called "Court Administration Process 330.20: Assisted Reproductive Technology." This CAP provides some guidance to district court administrators as to the court filing process in assisted reproduction cases, including directing where the cases should be filed and how the cases should be captioned and processed administratively, but it explicitly does not offer any substantive guidance as to the law that will be applied in these matters, including how or when parentage shall be established.

This lack of statutory authority and judicial direction addressing assisted reproduction generally and surrogacy specifically has left many unanswered questions for practitioners, courts, and individuals seeking to build their families using various assisted reproduction processes. Among the major issues causing both confusion and significant variance between the courts in the state is whether parentage in these cases can be adjudicated before a child is born. Some courts find that parentage can only be established in assisted reproduction situations under the Parentage Act (Chapter 257), and that this can only occur after the child is born and following a post-birth hearing. Other courts in Minnesota allow for pre-birth adjudication outside of the Parentage Act and without a hearing based on written submissions for a declaratory judgment, written stipulations by the parties, and an affidavit from the fertility doctor overseeing the medical process. Hospitals and parties prefer to have parentage in these cases established before birth, but not all courts will allow that to occur. The law is also unsettled surrounding the parental rights and responsibilities for parties using artificial insemination, in vitro fertilization, and donors of genetic material, especially when the parties are not married or the transfers occur outside of a medical facility.

All of these aspects of assisted reproduction are part of highly planned efforts at family formation. They do not fit well in the currently existing Parentage Act which was put in place many decades ago to address unplanned and often unwanted pregnancies resulting from sexual intercourse outside of marriage. The primary legal concern is those situations is often establishing parentage so child support can be assessed and determining custody and parenting time in this unplanned context. Those are not the primary concerns in these assisted reproduction situations where all aspects of the pregnancy are planned and contracted for. It is time for Minnesota law to catch up with the realities of assisted reproduction that has been occurring in Minnesota for several decades without clear legal guidance.

Based on mine and my colleagues' collective experience in this area of practice, we have opted to propose and support something similar to Articles 7, 8, and 9 of the UPA 2017 as the best solution to address this legal void in Minnesota. The full UPA 2017 addresses all aspects of establishing parentage resulting from both sexual intercourse and assisted reproduction. While we find much to be admired in this model statute that addresses all types of parentage determinations, our informal work group opted to focus our energies on parentage determinations only in the context of assisted reproduction and to propose that all statutory provisions addressing assisted reproduction be put into a separate, , stand-alone statute that would just address parentage in the

context of assisted reproduction. That what the above-referenced bills now under consideration by this Committee do.

These statutory provisions would repeal the artificial insemination provisions in Minn. Stat. § 257.56 and put them in a new Chapter 257 E that would address not only artificial insemination between married and unmarried parties, but other aspects of assisted reproduction. They would address in vitro fertilization and the donation of genetic materials occurring as part of an assisted reproduction process. They would also address gestational surrogacy, including provisions addressing the required content of the underlying contracts, legal representation for the parties, enforceability of the contracts, and allowing specifically for pre-birth determinations of parentage if the statutory requirements are complied with. The proposed legislation would also address the need for agencies and fertility clinics to collect donor information in these various assisted reproduction processes that could be made available in specified circumstances to children born of these processes when they become adults. The House bill currently also addresses genetic surrogacy (where the surrogate is using her own egg and is thereby a genetic parent as opposed to a gestational surrogate who is carrying someone else's egg) and the Senate bill does not; our informal work group would support a bill that omits genetic surrogacy.

As this proposed legislation is based on the assisted reproduction provisions of the UPA 2017, it has been carefully and thoughtfully drafted by experienced practitioners, judicial officers, and academics from across the country. Ultimately, this bill simply codifies, unifies, and protects already existing practices that have long been used by practitioners in this area of law across the state in the absence of a clear statutory process specifically applicable to assisted reproduction. The clarity of law and practice that this proposed legislation would bring to the many citizens of these state who are building families through various assisted reproduction processes is now needed more than ever given the uncertainly of reproductive rights and practices in our current legal and political landscape. This legislation should not be considered controversial or a significant deviation for what is currently happening in the area of assisted reproduction. Rather, it will simply codify widely existing practice, bringing both uniformity and protections for the courts, attorneys, intended parents, donors, surrogates, doctors, and agency owners who are already engaged in these processes, but who desperately need these protections and guidelines that this legislation would provide.

I respectfully request that the members of this Committee carefully consider and support this legislation.

Very truly yours,

/s/ *Gary A. Debele*

Gary A. Debele
Attorney

cc: Rep.Athena.Hollins@house.mn.gov
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