

My name is Lisa Stark Hughes, and I am the owner of GSMoms, a full service egg donation and surrogacy agency. We have been in business for over 11 years. I am also an Officer and Education Chair of the Society of Ethics in Egg Donation and Surrogacy (SEEDS).

Every donor business, whether they are a donor bank, agency, or clinic, has a donor database. All of these entities currently have procedures in place to gather and update information on their donors. Currently, once a donor either chooses to no longer donate, has reached their maximum number of cycles, or ages out, their file is archived. This legislation merely asks us to continue sending a form email once every three years to request any updated medical and contact information for donors, so that IF a child from that donation requests information it is available.

This bill also requires that donors and recipient parents receive psycho-educational materials to better understand the unique lifelong impacts of donor conception. How can we, as professionals, say that a donor or a recipient parent is making an informed choice without ensuring they are educated on the impact of the decisions they are making for their children (both the recipient parents and the donor's children).. This bill changes the expectation of donation, the donor and recipient parents create an expectation of contact during their agreement which allows the donor conceived person the opportunity of choice when they become an adult.

parents and donors send out an email every three years keep your records.. A in case th human being that was created through this wonderful collaboration has questions. Just in case, they might want to say thank you.

This bill is not asking for anything difficult. While some parents or donors might choose to not work with a clinic or agency in Colorado, there is an equal and possibly greater number that might choose Colorado clinics and agencies BECAUSE they want the guarantee that their child can have their questions answered about how they came to be and about their genetic make up.

I implore you to support this bill. By doing so, you will show your support for responsible and ethical donation and strong family relationships.

Good afternoon, Chairman Coleman and members of the State, Veterans, and Military Affairs Committee.

I'm Christina Spencer. I live in Parker, Colorado just 20 miles south of here. In 2019, I accidentally discovered that my father and I share no DNA. I matched with a half-sibling on 23&me and learned that I am donor-conceived.

I support Senate Bill 22-224, the Donor-conceived Persons and Families of Donor-conceived Persons Protection Act.

I was conceived and born at Rose Memorial Hospital in Denver in the mid 1970s. I was raised in the Denver Metro area by my mom and dad.

I was raised as an only child. I was a very well-mannered and kind child. I was very academic and high-achieving. My mother was very happy to have me, but my father was rather disinterested. The more I achieved, the more my father seemed to resent me and he actively tried to discourage me and put roadblocks in my way. I couldn't make sense of it. I often told him that I loved him but he was very cold to me and has never said it back.

I've had a mysterious neurological health issue for most of my life. When I got pregnant with my first child in 2007, it became hideous and since then, I have been in constant, miserable pain. For this health issue alone, I have now seen 65 doctors, had 6 major surgeries, 13 nerve blocks and spent time at the Mayo Clinic.

I took a DNA test for the health screening component to try and get a diagnosis. Instead, I found that half of me, half of my genes, came from a complete stranger who lives in a city I've never been to.

Still in constant pain from this neurological problem, I wrote to this stranger, Mike, because I wanted to know if there were medical issues in his family that were diagnosed and if those answers could help me. I knew it was a big longshot, but I had to be honest with myself that I also really wanted a relationship with this man. I'd never had a father who was proud of my accomplishments or who was warm and kind to me.

Mike and I have now forged a terrific relationship. His presence in my life has filled a huge hole in my heart. I have now seen photos of our ancestors. I know who so many of my talents and abilities come

from. I also have a great relationship with Mike's sister, my biological aunt, and we are very close and very similar too.

Mike has told me that he was never asked any medical history – nothing at all – before he was asked to donate sperm. He was in his medical residency here in Denver. They knew his first and last name and that was it.

The half of me that is not from my mother is not a blank slate. It is not an empty set of generic genes. I might have been a lab experiment as a zygote, but now I am a person. I've had to endure a lot because I had absolutely no idea that I did not share my father's DNA. My children have been affected by this secrecy as well. And were it not for my biological father's current empathy and kindness, my children and I would have no access to medical history. Knowing the truth of my origins and knowing my biological family has been immensely powerful.

Please, vote in support of Senate Bill 22-224.

Thank you for taking the time to listen to my testimony. Please, feel free to ask me any questions.

23 April 2022

Senator James Coleman, Chairman
State, Veterans, and Military Affairs Committee
200 E Colfax Avenue
Denver, CO 80203

RE: SB 22-224 (Fenberg & Gardner) Donor Conceived Persons and Families of Donor Conceived Persons Protection Act - SUPPORT

Dear Chairman Coleman and Committee Members:

Hello, my name is Dr Damian Adams, I have been conducting and publishing research on donor conception for over 10 years and medical science in general for over 25 years. I have been asked to testify today concerning my research which supports SB22-224, the Donor Conceived Persons Protection Act.

The need of donor-conceived people to access identifying information on the donor is a basic human rights issue and is intrinsic to the human condition to know our origins and our family connections. Furthermore, it extends to the need to know on medical grounds, the formation of a person's identity and to prevent consanguineous relationships between siblings which can number dozens to over a hundred.

Some have argued that this bill requiring donors to consent to the release of their identity to adult donor-conceived people will lead to a reduction in donor numbers. However, through my research we saw here in Australia, that sperm donor numbers increased after anonymity was banned. This situation mirrored an increase in donor numbers in the United Kingdom when donors were also prohibited from remaining anonymous. Certainly, some donors may choose not to donate under an identity release regime; however, the experience in Australia and the UK showed that with the appropriate recruitment strategies donors could be recruited to more than cover those losses.

In many jurisdictions around the world, the child's welfare is held to be paramount and, therefore should override any concerns or desires of adults. It is this welfare of the child that was central to my research on donor-conceived people. We conducted the first systematic reviews and meta-analysis of perinatal outcomes from donor conception. Donor-conceived babies fared worse in terms of being more likely to be born prematurely, of low birthweight and with increased incidences of birth defects. However, these outcomes were dependent on the treatment modality with donor-egg conceived babies faring worse than donor-sperm conceived babies. These studies which are at the top of the evidence pyramid have been replicated by other authors who have found similar outcomes, thereby supporting our conclusions.

These outcomes that we and others around the world have reported on are significant because they fit within the Developmental Origins of Health and Disease phenomenon. This widely accepted scientific phenomenon describes that if you have a poorer start in life, such as being born prematurely and of low birthweight you are more likely to develop heart disease, type-2 diabetes and obesity later in life.

When we analysed adult donor-sperm conceived people to determine how their poorer start affected their long-term health, we found that they were more likely to have been diagnosed with type-1 diabetes, thyroid disease, bronchitis, autism, attention-deficit disorder and to suffer a variety of other mental health conditions. Many of these outcomes have an inflammatory origin which is associated with the increased incidences of preeclampsia and

pregnancy-induced hypertension that is observed in pregnancies achieved with donated gametes.

I urge that in all considerations that the welfare of the donor-conceived person must be held as paramount and not subjugated to the desires of others.

Thank you for your time.

Dr Damian Adams, PhD

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Flinders University
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April 25, 2022

Senate Bill No. 22-224: A Bill for an Act Concerning the Creation of the “Donor-Conceived Persons and Families of Donor-Conceived Persons Protection Act”

Dear Chair Coleman and Members of the Senate State Affairs Committee:

We are law professors who work primarily on parentage—the legal status of the parent-child relationship. One of us is the Martin Luther King, Jr. Professor of Law at the University of California – Davis School of Law. The other is the Anne Urowsky Professor of Law at Yale Law School, with a secondary faculty appointment as Professor at the Yale Child Study Center. **We are testifying in support of the current version of Senate Bill No. 22-224, The Bill for an Act Concerning the Creation of the “Donor-Conceived Persons and Families of Donor-Conceived Persons Protection Act.”**

We support access to information for donor-conceived people and their families. One of us was the Reporter (drafter) on the Uniform Parentage Act (UPA) of 2017. The other led the effort to draft and pass the Connecticut Parentage Act (CPA), which was modeled on the UPA and became effective in 2022. Both the UPA and the CPA include extensive provisions on access to information for individuals conceived with donor gametes. Article 9 of the UPA ensures access to non-identifying medical information for donor-conceived people and their families. It also creates a process for collecting identifying information and allows gamete providers to choose to allow for release of their identifying information upon request of the donor-conceived person at or after they have reached 18 years of age. In addition, Article 9 of the UPA places an obligation on gamete banks to notify anonymous gamete providers of requests for identifying information by donor-conceived people or their families and to allow the gamete provider to decide to allow their identifying information to be disclosed.¹ The CPA adopts the approach of Article 9 of the UPA.

While we support access to information for donor-conceived people, we write here to highlight two key points: First, in our view, the kinds of protections included in Senate Bill 22-224 are most appropriate when a jurisdiction has comprehensive parentage protections for families formed through assisted reproduction. This is consistent with the UPA and the CPA, both of which address the gathering and disclosure of information regarding gamete providers as part of *comprehensive parentage reform*. Second, in addressing issues related to gamete providers, it is important to consider the variety of perspectives held by donor-conceived people. As scholars working in this area, we emphasize that the empirical literature demonstrates a diversity of views with respect to access to identifying information about a gamete provider.

(1) These types of access-to-information protections are most appropriate when a jurisdiction has comprehensive parentage protections.

Today, many states still lack comprehensive, updated parentage provisions regarding children conceived through assisted reproduction. In states without comprehensive protections, the parent-

¹ While the UPA and the CPA allow a gamete provider to change from being a non-identity-release provider to an identity-release provider, it does not allow for changes in the other direction (from identity release to non-identity release).

child relationships between intended parents and children conceived through assisted reproduction are not adequately protected. This is harmful to those children and their families.

Comprehensive parentage protections recognize and protect the parental status of all intended parents of children conceived through assisted reproduction regardless of their marital status, gender, sexual orientation, or genetic connection. Colorado recently enacted rules consistent with this principle in the context of surrogacy. Laws 2021, Ch. 103 (H.B. 21-1022), eff. May 6, 2021 (Colorado Surrogacy Agreement Act). The new provisions protect *all* intended parents, regardless of sex, sexual orientation, marital status, or genetic connection. *See* C.R.S.A. § 19-4.5-103(10) (providing that “intended parent” “means an individual, married or unmarried, who manifests an intent to be legally bound as a parent of a child conceived by assisted reproduction”). There is pending legislation that would make similar updates to the non-surrogacy assisted reproduction provisions. Colo. H.B. 22-1153. It is our position that it is critical that this update be made in conjunction with this legislation.

The legal status of parentage gives rise to rights, such as custody and decision-making authority, and responsibilities, such as financial support. Having certainty and security regarding these relationships is critical to children’s welfare. The UPA and laws modeled on it make clear that an individual who consents to assisted reproduction with the intent to be a parent of the child *is* a parent of the child, regardless of the person’s marital status, gender, or sexual orientation, and regardless of whether they are a genetic parent of the child.

Parentage laws must ensure not only adequate protections for all intended parents, but also adequate protections for providers of gametes. The UPA and laws modeled on it also make clear that a donor of gametes is not a parent and thus has no parental rights or responsibilities with respect to the child.

Unfortunately, today too few jurisdictions have such comprehensive protections. Some states do not even have statutes addressing parentage in the context of assisted reproduction. Many states that have assisted reproduction statutes limit their application to married couples.² Some states maintain statutes that, on their face, apply only to different-sex couples. All of this means that a nongenetic intended parent may in many cases be treated as a legal stranger of their child. In recent years, courts from Florida to Virginia and Louisiana to Idaho have found that the nonbiological mother of a child conceived with donor sperm in the context of a nonmarital same-sex relationship was not a legal parent.³ Even though the nonbiological mothers in these cases had raised their children for many years, they were legal strangers with no rights to maintain contact with their children.⁴ Decades of child development research confirms what common sense teaches: Results of this kind are devastating to children.

² *See* Douglas NeJaime, *The Nature of Parenthood*, 126 YALE L.J. 2260, 2367-68 (2017) (App. B); Courtney G. Joslin, *(Not) Just Surrogacy*, 109 CALIF. L. REV. 401 (2021) (App. B).

³ *See, e.g.,* Cook v. Sullivan, 330 So.3d 152, 159 (La. 2021); Hawkins v. Grese, 809 S.E.2d 441 (Va. Ct. App. 2018); Doe v. Doe, 395 P.3d 1287, 1292 (Idaho 2017); Russell v. Pasik, 178 So.3d 55, 60 (Fla. Ct. App. 2015).

⁴ Indeed, for same-sex couples, marriage may not even offer a remedy. For example, just last year, the Idaho Supreme Court ruled that the nonbiological mother in a married same-sex couple who conceived a child with donor sperm was not a legal parent. *See* Gatsby v. Gatsby, 495 P.3d 996 (Idaho 2021). Just this year, in neighboring Oklahoma, a court found that the nonbiological mother in a married same-sex couple who conceived through assisted reproduction was a legal stranger to her child. *See* Tyler Stevenson, *An Oklahoma Judge is Denying a Mother Parental Rights Because She’s Not the “Gestational Parent”*, LGBTQ NATION (Feb. 25, 2022).

Because assisted reproduction is a central way in which LGBTQ people form families, the lack of parentage protection is particularly harmful to these families. Many other individuals, including many single people, also conceive children through assisted reproduction.

If the law refuses to treat the nonbiological intended parent as a legal parent, it may instead treat the gamete donor as legal parent. This may be the case even though neither the gamete provider nor the intended parents view the person as a parent. In neighboring Kansas, the state filed a paternity action against a sperm donor, even though the donor and the same-sex couple had entered an agreement making clear that the two women were the child's intended parents and the donor had no parental rights or responsibilities.⁵ In Indiana, an appellate court found an agreement between a same-sex couple and a sperm donor to apply to only one of the two children conceived with the donor sperm and thus adjudicated the donor to be the legal father of the second child; he was now responsible for that child's financial support.⁶

In light of these conditions across the country, it is our position that one must proceed carefully and cautiously in this area so as not to undermine family relationships formed through assisted reproduction. This caution applies both to the technical legal rules being considered and to the ways in which the interests at stake are being discussed. For example, from our perspective, it is critical to distinguish between parents, which include nongenetic intended parents who conceive children through assisted reproduction, and gamete providers, who have genetic but not parental relationships with children conceived through assisted reproduction.

(2) Importance of recognizing the variety of perspectives held by donor-conceived people.

We also think it is important to consider the variety of perspectives held by donor-conceived people. As scholars working in this area, we emphasize that the empirical literature demonstrates a diversity of views with respect to access to identifying information about a gamete provider. For example, as a peer-reviewed 2017 study found:

The aim of this research was to provide insight into [donor insemination] adult requests for their donor's identity, specifically who makes requests and why. Results indicate that during the first 10 years of possible releases, adults from a third of eligible families (85/256) contacted the program for their donor's identity. With parental nondisclosure considered, the estimated rate of requesting was closer to 40%. . . . Three quarters of adults who requested, eventually completed the process and obtained their donor's identity from the program. Time to complete the release process ranged from 1 day to >3 years, with 75% of adults completing within 3 months, and 92% within a year.⁷

The study found variation based on gender: "Proportionally more women requested than men."⁸ The study also found variation based on family type: "[A]dults raised by one parent requested

⁵ *Kansas v. W.M.*, No. 12D 2686 (Dist. Ct. Shawnee Co. Jan. 22, 2014).

⁶ *In re M.F.*, 938 N.E.2d 1256 (Ind. Ct. App. 2010).

⁷ Scheib, Joanna E., et al., "Who Requests their Sperm Donor's Identity? the First Ten Years of Information Releases to Adults with Open-Identity Donors." *Fertility and Sterility*, vol. 107, no. 2, 02/2017, pp. 483-493, doi:10.1016/j.fertnstert.2016.10.023.

⁸ *Id.*

proportionally more often than those raised by two.”⁹ The point here is simply that attempts to enact legislation ensuring access to information for donor-conceived people should be sensitive to the fact that individuals within the donor-conceived community approach information about the gamete provider differently. Such variations may reflect, among other things, different perspectives on the importance assigned to genetic connection.

Thank you for the opportunity to testify in support of Senate Bill 22-224.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Joslin', with a long horizontal flourish extending to the right.

Courtney Joslin
Martin Luther King, Jr. Professor of Law
University of California – Davis School of Law

A handwritten signature in black ink, appearing to read 'Douglas NeJaime', written in a cursive style.

Douglas NeJaime
Anne Ursowky Professor of Law
Yale Law School

⁹ *Id.*

Senate State, Veterans, & Military Affairs

04/26/2022 02:00 PM

SB22-224 Protections For Donor-conceived Persons & Families

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Rachel Lemmons For We Are Egg Donors	<p>Good afternoon Chairman Coleman and members of the State, Veterans, and Military Affairs Committee. My name is Rachel Lemmons. I live in Denver and I have been both an anonymous and known egg donor. On behalf of myself and We Are Egg Donors, which is a donor advocacy group of nearly 2,000 egg donors, we support SB-224.</p> <p>In the donor screening process, I was never educated on how my decision could impact those born from my donations. I was told my obligations ended after egg retrieval. When I had my daughter, I began to regret my anonymous donations. She is able to know where her DNA came from and her evolving family medical history. The children born from my donations deserve the same.</p> <p>My concerns about the impact to the lives I helped create were confirmed by speaking with donor-conceived persons. Many donors have the same experiences and concerns as I do. Had I known I may never be able to fulfill an ethical obligation to the lives I helped create I would have never donated anonymously. The problem was that I was never educated on the impacts of being a donor or the challenges donor-conceived persons face. Donors cannot give informed consent when they aren't informed.</p> <p>I urge you to support SB-224. In addition to the essential rights it would establish for donor-conceived persons, it would provide much-needed changes for egg donors. It contains provisions on materials to educate donors on the importance of open ID, which allows them to make an informed decision on whether they should donate. It prioritizes the health of donors by creating a regulatory limit on the numbers of cycles egg donors can complete. It also places reasonable limits on the network of half siblings, which benefits donors, their family and children.</p> <p>The truth is that our obligations don't end after egg retrieval. When you deliberately help create life, the obligations last a lifetime.</p> <p>Thank you for allowing me to share my testimony.</p>
Alice Ruby For The Sperm Bank of California	<p>Dear Senators,</p> <p>We write in support of increasing openness in family-building through gamete donation.</p> <p>Based on our experience at a non-profit gamete donation program, we support (1) donors agreeing in advance to release their identifying</p>

	<p>information to donor-conceived adults and (2) gamete donation programs taking good-faith measures to keep outcome records and limit the number of families per donor. We believe that these efforts are feasible, work well together, and lead to best outcomes for all parties-- donor-conceived people, recipient parents, and gamete donors.</p> <p>The first open-identity gamete donation program in the world was established by The Sperm Bank of California (TSBC) in 1983. We have tracked outcomes for 40 years to assess the feasibility of the program. We have 20 years' experience releasing donor identifying information (90% of donors provide an update to share-) to 250+ DC adults. Every adult who completed a request has received the donor's identity. In interviews with a subsample of requestors not one adult regretted learning the donor's identity.</p> <p>For the past 8 years all new program donors have agreed to release their identity to requesting DC adults. Educating donors about the realities of gamete donation, including the limitations of anonymity and concerns of DC people, results in (1) more donors opting into our open-identity program and (2) some potential donors opting out of donating. Donors tell us they would rather have their identity shared through a structured program than be surprised when other means reveal their identity. DC people tell us that they appreciate the option to receive the donor's identity through a structured program.</p> <p>Tracking pregnancy outcomes is necessary to maintain an open-identity program and provide important ongoing services to families and donors. TSBC implemented a 10-family limit on the number of families any one donor can assist. This is based on concerns that larger numbers can be challenging for a donor to manage, should DC adults want to make contact. It also reflects concerns for all parties when confronted with a large group of donor relations. Many families seek out those who share their donor which can be complicated with large numbers. A low family limit helps minimize the impact when unanticipated donor-based genetic problems are discovered years later.</p> <p>Sending references by email</p>
Cassandra Adams For Self	<p>I support Senate Bill 22-224, the "Donor-Conceived Persons And Families of Donor-Conceived Persons Protection Act."</p> <p>I was conceived and born in 1982 from anonymous sperm donation. I discovered the family secret through recreational DNA testing at the age of 35. I was of a completely different ethnic background than I was raised to believe. I had received extremely inaccurate medical care throughout my life due to my false and unknown paternal medical history and am fortunate to be alive; not every donor-conceived person is that lucky. I was able to find my biological father within hours through my DNA matches; no one is anonymous any longer. My biodad</p>

	<p>was very happy that we found him and agrees that if donors do not want to be found and are not willing to give updated medical history and information about themselves then they should not donate. I now work in advocacy and I am a moderator for the world's largest community for the entire donor conception constellation. I talk with thousands of parents and donors in addition to people like me. We see that parents come to our community with very little if any understanding of the gravity of the donor-conceived experience. They are not being prepared by clinics. Many are hearing about best practices for the very first time. We are asking for support for ALL parts of who we are. Donor-conceived people like me are rejected by our raising families for pursuing parts of our identities, a commonality we share with many other marginalized groups. This is legislation to provide necessary protection, information, and documentation TO US about our own bodies. The privilege of knowing where you come from makes it hard to understand but our mental and physical health depends on you; we should not suffer because of the way we were conceived. We need equal rights and protection for all families, and that includes giving donor-conceived children, who become adults, open, transparent, and ongoing access to our history and our own bodies, and enforcing best practices that will reduce the traumas and struggles of families. We are the experts. I have reclaimed myself by officially becoming a member of the Jewish tribe, by forming long overdue relationships with my new biological family, and now by sitting here to help reclaim it for all those who come after me. I want the autonomy and dignity regarding my own body. I want to feel legally human.</p>
<p>Amanda Troxler For Self</p>	<p>My name is Amanda Troxler. I'm a fertility attorney. I have been practicing exclusively in the area of assisted reproduction for 11 years. I'm also a former egg donor. I donated to 6 families and there are 8 children from my donations — that I am aware of.</p> <p>I am also a brand-new, first-time mother. I gave birth to my son last month, which is why I can't be there in person.</p> <p>I have a relationship with one of the families who received my eggs. They have two sons, who are five and three. It's wild watching them grow and each exhibit different traits that came from me.</p> <p>The family and I have dinner together a few times a year. I was invited to meet each son when they were born, which was extremely special. The family also came to our house recently to meet our baby boy.</p> <p>I'm curious about how the relationship between the three boys, who are biological brothers, will develop over the years. I'm ecstatic that they will grow up knowing each other.</p>

	<p>I also think often about my offspring who are currently unknown to me. I hope that they are happy and healthy. I wonder if they're like me. My wish for them is that the world is fair to them and understanding.</p> <p>As an ART attorney, I have dedicated my life to helping people navigate third party reproduction. I know, first-hand, that donor conception creates so many amazing families. But there is a lot of work that needs to be done to support donor conceived people, whose voices have so often been ignored. When I see the concerns and lived experiences of donor conceived people being disregarded, I know that we need to take action, because that's not what I want for my 8 donor conceived offspring, who are navigating the world.</p> <p>The biggest improvement that can be made to world of gamete donation is to improve transparency, and this bill provides reasonable mechanisms for doing that. I support this bill because reasonable limits must be placed for donor conceived siblings, because greater accountability is needed for agencies, and because people have a right to their own genetic information and they have a right to develop relationships with their genetic families.</p>
Robert Plomin For Self	<p>I am Professor of Behavioral Genetics at the Institute of Psychiatry, Psychology and Neuroscience, King's College London. The thrust of my research and the research of many others is that inherited DNA differences are the major force making us who we are as individuals. This includes all psychological traits – mental health and illness, mental abilities and disabilities, and personality – which is my special expertise. However, this conclusion also pertains to all biological traits and medical disorders.</p> <p>As described in my book <i>Blueprint</i>, most scientists now recognize the importance of genetics (i.e., inherited DNA differences). This conclusion is reinforced by exciting advances in the DNA revolution which makes it possible to use DNA to predict medical and psychological disorders.</p> <p>I was moved to write in support of the bill because it is vital that donor-conceived persons and their children know the identity of donors in order to learn about their genetic risks for mental and physical disorders. Genetic information about risks is crucial to predict and prevent disorders from occurring. Regular medical updates from donors is also important as many of these disorders develop later in life, long past the time when donors first provide information to agencies, such that knowing a donor's identity once a donor-conceived person reaches the age of 18 is vital.</p> <p>Although risks for mental and physical disorders are crucial, as a psychologist I want to note that, given the importance of genetics, heritage is an important component of understanding yourself and your</p>

	<p>children, such as educational attainment, personality, and interests. In my research on adoption, I have found this to be a driving force in adoptees wanting to know the identity of their biological father/mother.</p> <p>Because half-siblings are 25% related genetically, mating between donor siblings is inbreeding, which leads to many health problems due to deleterious recessive genes that largely do their damage when genetically related individuals have children. For this reason, a crucial component of the bill is to place a reasonable limit (the same as the one in the U.K.) on the number of families established from the gametes of each donor.</p> <p>In summary, I support this bill enthusiastically and without reservation as a geneticist and as a psychologist.</p>
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April 25, 2022

Dear Chair Coleman and Members of the Senate State Affairs Committee:

We write in support of SB22-224, the Donor-Conceived Persons and Families of Donor-Conceived Persons Protection Act, as written.

Background

We are LGBTQ organizations deeply committed to LGBTQ families and their children so that they can truly thrive in our communities.

For over thirty years, COLAGE has been the only national organization expressly dedicated to supporting people with one or more LGBTQ+ caregivers, uniting them with a network of peers and supporting them as they nurture and empower each other to be skilled, self-confident, and just leaders in their communities. COLAGE's donor conceived community is a core constituency for our organization and we are proud to represent their interests with regard to SB22-224.

Family Equality is a national organization that exists to create a world where everyone can experience the unconditional love, safety, and belonging of family. Family Equality works to ensure that LGBTQ+ individuals have the freedom to form and sustain their families by advancing legal and lived equality for the LGBTQ+ community. Since its founding in 1979, Family Equality has used advocacy and public education to change attitudes, laws, and policies that are harmful to LGBTQ+ families and individuals. From filing "storytelling" amicus briefs in key cases impacting LGBTQ+ families to public education and legislative advocacy, Family Equality is a leading voice for LGBTQ+ families across the United States.

GLBTQ Legal Advocates & Defenders ("GLAD") works in New England and nationally to promote justice on the basis of sexual orientation, gender identity and expression, and HIV status. GLAD has a long history of working to protect LGBTQ families, particularly ensuring that the lives of children are stable and secure. Nationally, GLAD has been a leader in establishing and protecting the fundamental right to marry and its attendant benefits, including rights and responsibilities vis a vis children, through our work on cases including *Obergefell v. Hodges*, 135 S. Ct. 1039 (2015), *Pavan v. Smith*, 137 S. Ct. 2075 (2017). Across New England, GLAD has successfully litigated state cases to protect children of LGBTQ families. Beyond the courtroom, GLAD has successfully worked in coalition to pass legislation promoting the security of children regardless of

the circumstances of their birth, including children born through assisted reproduction, to nonmarital parents, and to LGBTQ parents.¹

The National Center for Lesbian Rights (“NCLR”) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) people and their families through litigation, public policy advocacy, and public education. Family law and the formation of families by LGBTQ parents has been a core aspect of NCLR’s work since our founding in 1977. NCLR has national expertise in the legal rights and needs of LGBTQ families formed through assisted reproduction. NCLR served as an Observer on the Drafting Committee for the Uniform Parentage Act of 2017, has been involved in legislation addressing assisted reproduction and the recognition of LGBTQ parents and their children across the country, and has litigated numerous cases at the appellate level addressing the rights of LGBTQ parents and their children.

Building Families

For so many, there is a deep longing to care for children and to nurture a new generation. There are many ways to build a family, and there is a great diversity of family structures in the United States. Assisted reproduction using gamete donation is one of the many ways that people, including those struggling with infertility, single parents, and LGBTQ people, seek to build their families.

Speaking from the perspective of LGBTQ families, assisted reproduction is a means to joyfully form a family with children and welcome them into the world. Careful planning is essential to build a family in this way, whether through assisted reproduction and gamete donation, including donation of sperm, egg, and embryos.² Unfortunately, significant barriers exist for LGBTQ people who wish to build families through assisted reproduction. According to Resolve, the National Infertility Association, only nineteen states have passed fertility insurance coverage laws.³ No state Medicaid plan provides coverage for fertility care. Even in states which provide some access to insurance for fertility care, LGBTQ people face additional requirements or barriers to accessing that care and bringing children into our families.

¹ See, e.g., 19-A M.R.S. §1831 et seq.(2015); Vt. Stat. Ann. tit. 15C, § 101-809 (2018); 15 R.I. Gen. Laws § 15-8.1 (2020); Conn. Gen. Stat. Ann. § P.A. 21-15 (2021).

² See Nat’l Acads. of Scis., Eng’g, and Med., *Understanding the Well-Being of LGBTQI+ Populations*, 181-183 (2020).

³ See Resolve, *Insurance Coverage by State*, <https://resolve.org/learn/financial-resources-for-family-building/insurance-coverage/insurance-coverage-by-state/>

After intentionally and thoughtfully welcoming children, LGBTQ parents also experience barriers to protecting their children due to a patchwork of legal protections across the country for children born through assisted reproduction. The Uniform Law Commission recently issued an important update to its model act - the Uniform Parentage Act of 2017 - to recommend to states that they comprehensively update parentage protections to ensure that all families could secure their children's parentage regardless of the gender, sexual orientation, marital status of the parents or the circumstances of the child's birth through, for example, assisted reproduction.⁴ Although a number of states have acted to update their parentage laws to protect children born through assisted reproduction to LGBTQ parents, much more work is needed to ensure that children of LGBTQ parents have equal access to the security of a legal parent-child relationship.⁵ For children who lack parentage protections, the results can be devastating including lack of access to benefits, involvement in state child welfare systems, and separation from beloved parents.

As organizations, we routinely hear from LGBTQ community members facing barriers to building and protecting their families. In our work, we are committed to reducing economic and legal barriers to building families and to increasing protections for children and families. It is very important for the LGBTQ community that assisted reproduction, including gamete donation, is accessible, affordable, and provided in a nondiscriminatory and inclusive way.

The Bill

As with any community, children and adults who were conceived through gamete donation and their families are a diverse and multi-faceted community. For LGBTQ parents within this community, there is a commitment to openness and honesty with their children about the circumstances of their birth through assisted reproduction and donor gametes. We support laws that create a structure for this open and honest communication about family origins.

As organizations representing the LGBTQ community, including children and adults with LGBTQ parents, parents and families, we write to specifically support two aspects of this bill: (1) access to non-identifying medical information of gamete donors at any age and (2) access to identifying information of gamete donors when a donor-conceived person is age 18 or older.

⁴ Uniform Parentage Act (UPA) 2017.

⁵ See Douglas NeJaime, *The Nature of Parenthood*, 126 Yale L.J. 2260, 2367-68 (2017) (App. B); Courtney G. Joslin, *(Not) Just Surrogacy*, 109 Calif. L. Rev. 401 (2021).

First, some children and families wish to access non-identifying medical information about their gamete donor. The bill is consistent in this regard with Article 9 of the UPA 2017, which aims to ensure that children conceived with donated gametes and their parents have access to non-identifying medical information regarding gamete donors that is stored by the gamete bank or fertility clinic.

Second, some children wish to access identity information regarding their gamete donor. In a 2017 study of children conceived through identity-release donors from the Sperm Bank of California, 32% of eligible children reached out to the program to access identity information.⁶ Although this is only one study, it is clear that children conceived through donor gametes have a legitimate interest in the opportunity to access information about the identity of their gamete donor. We support the provisions in this bill that enable adults conceived through gamete donation to choose to access identity information after attaining age 18.

This bill implicates many important interests, raises numerous issues and intersects with numerous stakeholders, including children, and their parents and families. We are grateful for having been consulted about the interests of the LGBTQ community vis-a-vis this bill, and we look forward to continuing to engage and collaborate to address these important issues.

Sincerely yours,

Jordan Budd, COLAGE

Shelbi Day & Sa'Metria Jones, Family Equality

Patience Crozier & Mary Bonauto, GLAD

Cathy Sakimura, NCLR

⁶ Scheib, Joanna E., et al., *Who Requests their Sperm Donor's Identity? The First Ten Years of Information Releases to Adults with Open-Identity Donors*. *Fertility and Sterility*, vol. 107, no. 2, 02/2017, at p. 4.

23 April 2022

Senator James Coleman, Chairman
Senate State, Veterans, and Military Affairs Committee
200 E Colfax Avenue
Denver, CO 80203

**RE: SB 22-224 (Fenberg & Gardner) Donor Conceived Persons and Families
of Donor Conceived Persons Protection Act - SUPPORT**

Dear Chairman Coleman and Committee Members:

I am J. David Velleman, Professor Emeritus of Philosophy and Bioethics, New York University, and William H. Miller III Research Professor of Philosophy, Johns Hopkins University. I have published philosophical work on donor conception and organized a conference of philosophers and donor conceived individuals at NYU. I am submitting this comment in support of SB22-224, the Donor Conceived Persons and Donor Conceived Persons Protection Act.

Our culture is of two minds about ancestry. Many people mail their cells to a laboratory that can trace their biological origins several generations into the past. Others engage laboratories to produce children with gametes provided anonymously, on the express condition that their origin will never be known. The former people want to know where their great-great-great-grandparents came from; the latter want to have children who can never know who one or both of their parents were.

The latter people reject that description. A child's "real" parents, they say, are the people who parent it in practice, not the ones who provide its DNA. I wonder, then, whether they are comfortable with stories of babies switched in the maternity ward and brought home by the "wrong" parents. Surely, they must regard anyone who takes the baby home as the "right" parents by definition.

In fact, everyone is scandalized by stories of babies switched at birth. But why?

I am in the odd position of testifying before legislators to something they already knew by the age of five or six, when they first wondered "Where did I come from?" People want to know their origins.

Of course, adoptees grow up not knowing their biological parents, and they are just fine — aren't they? Well, actually, many adoptees are dogged by grief at the loss of the parents they never knew, and many try to locate those parents at some point. More importantly, many adoptees know that their birth parents gave them up for their sake. Separation from their birth parents was a necessary accommodation to the circumstances of their birth, in the interest of the children themselves.

Donor conceived children are not like adoptees. Separation from one or both parents was not an accommodation to their birth, nor was it for the children's sake; it was for the sake of the custodial parents, as a precondition of causing the children to be conceived, in the first

place. Those parents are advised and/or encouraged by the largely unregulated fertility industry to specifically create a child who would not know where it came from — a child who would be denied knowledge about itself that it would inevitably want to have.

But in doing that, didn't the parents at least give the child the Gift of Life?

Here is the fundamental, and fundamentally puzzling, fact of reproductive ethics. Being born is not a gift: it's the precondition of receiving gifts — and of not receiving them, too. No one goes away empty handed from never having been born.

Thus, a woman should not try to conceive a child while taking a course of medication known to cause birth defects, even if that child, though disabled, would still be glad to have been born. She cannot justify herself to the child by saying, "If I had waited to conceive until my treatment was done, I would have had a different child: it wouldn't have been you." Similarly, parents cannot justify themselves to a donor conceived child by saying, "If we had insisted on a child who could have known its parents, we couldn't have had you." No child would have suffered from their not having one.

Of course, *they* might have suffered, being unable to become parents, if they couldn't adopt. So there is conflict of interests, between their interest in having a child and any child's interest in knowing where it came from. Unless we can mitigate that conflict, we should not practice donor conception. I believe that SB22-225, the Donor Conceived Protection Act, will mitigate such conflict by inter alia requiring future donors to agree to the release of their identities to adult donor-conceived persons. I urge the Committee to support this bill.

A handwritten signature in black ink, reading "J. David Velleman", followed by a horizontal line extending to the right.

J. David Velleman
Professor Emeritus of Philosophy and Bioethics, New York University
William H. Miller III Research Professor of Philosophy, Johns Hopkins University