

# HOUSE BILL NO. 5323

January 09, 2020, Introduced by Reps. Wakeman, Filler and Elder and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 9127.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 9127. (1) A facility that receives genetic material to be  
2 used for the purpose of assisted reproduction shall make available  
3 to an individual, other than the prospective birth mother, a  
4 declaration of intent form that may be used to establish the  
5 individual's consent to assisted reproduction by the prospective



1 birth mother with the intent to be treated as the other parent of  
2 the child under section 2120 of the estates and protected  
3 individuals code, 1998 PA 386, MCL 700.2120. An individual is not  
4 required to execute a declaration of intent form.

5 (2) A facility described in subsection (1) that receives a  
6 signed declaration of intent form from an individual shall do all  
7 of the following:

8 (a) Maintain the signed declaration of intent form in the  
9 individual's medical record although the signed declaration of  
10 intent form is not protected health information.

11 (b) Provide a copy of the signed declaration of intent form to  
12 the individual.

13 (c) Provide a copy of the signed declaration of intent form to  
14 the prospective birth mother.

15 (3) An individual may revoke a signed declaration of intent  
16 form by indicating his or her revocation in a separate writing that  
17 is signed and dated by him or her. An individual cannot orally  
18 revoke a declaration of intent form.

19 (4) A facility described in subsection (1) that receives a  
20 revocation of a declaration of intent form from an individual shall  
21 maintain a copy of the revocation of the declaration of intent form  
22 in the individual's medical record although the revocation of the  
23 declaration of intent form is not protected health information.

24 (5) The declaration of intent form made available under  
25 subsection (1) must be in substantially the following form:

26 "DECLARATION OF INTENT TO BE PARENT OF CHILD

27 You may wish to consult with an attorney before signing this  
28 form. This form is designed to declare your intent. Signing this  
29 form is not mandatory.



1 IF THE TRANSFER OF EGGS, SPERM, OR EMBRYOS FOR PURPOSES OF  
2 ASSISTED REPRODUCTION BY \_\_\_\_\_

3 (INSERT NAME OF PROSPECTIVE BIRTH MOTHER HERE)  
4 OCCURS AFTER YOUR DEATH, AND THE PROSPECTIVE BIRTH MOTHER GIVES  
5 BIRTH TO A CHILD OR CHILDREN, THE PROSPECTIVE BIRTH MOTHER IS THE  
6 CHILD'S OR CHILDREN'S PARENT. DO YOU INTEND TO BE TREATED AS THE  
7 CHILD'S OR CHILDREN'S OTHER PARENT FOR THE PURPOSE OF ESTABLISHING  
8 THE CHILD'S OR CHILDREN'S ABILITY TO INHERIT YOUR PROPERTY AFTER  
9 YOUR DEATH?

10 PLEASE CHECK "YES" OR "NO" AND THEN SIGN AND DATE BELOW:

11 \_\_\_\_\_ Yes \_\_\_\_\_ No

12 Signature: \_\_\_\_\_ Date: \_\_\_\_\_

13 If you check "yes" above:

14 In the case of multiple births, this form applies to all  
15 children born alive from the transfer or transfers of eggs, sperm,  
16 or embryos for the purposes of assisted reproduction that resulted  
17 in the births.

18 This form is a legal document. Although it will become a part  
19 of your medical record, it is not protected health information.

20 The possibility of a child of yours being born after your  
21 death might delay the distribution of your estate or trust  
22 benefiting your children.

23 If a child of yours is conceived after your death, the child's  
24 ability to inherit your property may depend, under state law, on  
25 your executor having notice by, at, or near the time of your death  
26 that genetic material is then available for use in conception.

27 You can revoke this form. Any revocation must be in a separate  
28 written document that you sign and date. An oral revocation is not  
29 effective. If you revoke this form, it is recommended that you



1 deliver the document revoking this form to the facility so the  
2 facility can maintain a copy in your medical record. If you revoke  
3 this form, it is also recommended that you inform the prospective  
4 birth mother that you revoked this form."

5 (6) As used in this section:

6 (a) "Assisted reproduction" means that term as defined in  
7 section 2115 of the estates and protected individuals code, 1998 PA  
8 386, MCL 700.2115.

9 (b) "Birth mother" means that term as defined in section 2120  
10 of the estates and protected individuals code, 1998 PA 386, MCL  
11 700.2120.

12 (c) "Declaration of intent form" means the form described in  
13 subsection (5).

14 (d) "Facility" means an entity that stores sperm, eggs, or  
15 embryos to be used for the purpose of assisted reproduction.

16 Enacting section 1. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5321 (request no.  
18 02835'19) of the 100th Legislature is enacted into law.

