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HOUSE BILL NO. 1259

Offered January 17, 2014

A BILL to amend § 63.2-1200 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1200.2, relating to recognition of embryo adoptions.

Patron—Marshall, R.G.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1200.2 as follows:

§ 63.2-1200.2. *Recognition of embryo adoption; issuance of birth certificates.*

I. Definitions

a. "Embryo" or "Human Embryo"—an individual fertilized human ovum from the single cell stage until eight weeks of development

b. "Embryo Relinquishment"—the relinquishment of legal rights and responsibilities of a human embryo by the holder of those rights to willing recipient(s) of the legal rights and responsibilities to the embryo(s), and the acceptance of the legal rights and responsibilities of the embryo(s) by the recipients.

c. "Embryo Transfer"—the medical process by which the embryo(s) are physically implanted into the uterus of the intended recipient parent or their selected gestational carrier.

d. "Legal Embryo Custodian"—Person who holds the legal rights to and legal responsibilities of the embryo and releases them to another person(s)

e. "Intended Recipient Parent"—person or persons who receive a relinquished embryo and who accepts full legal rights and responsibilities for such embryo and any child that may be born as a result of embryo transfer.

II. Release of Custody of Embryos to Intended Parents

a. A legal embryo custodian may relinquish all legal rights to and legal responsibilities for an embryo that they hold such rights to and responsibilities for to a recipient intended parent prior to embryo transfer.

b. A written contract shall be entered into between each legal embryo custodian and each recipient intended parent prior to embryo transfer for the legal transfer of rights to an embryo and to any child that may result from the embryo transfer. A singular and concurrent contract may be signed, in the event that the same legal embryo custodian(s) and the same intended recipient parent(s) intend to transfer legal rights and responsibilities to multiple embryos in a single occurrence.

c. The contract shall be signed by each legal embryo custodian for such embryo and by each recipient intended parent in the presence of a notary public and a witness. Initials or other designations may be used if the parties desire anonymity. The contract may include a written waiver by the legal embryo custodian of notice and service in any legal adoption or other parentage proceeding which may follow.

d. If the embryo was created using donor gametes, the sperm or oocyte donors who irrevocably relinquished their rights in connection with in vitro fertilization shall not be entitled to any notice of the embryo relinquishment, nor shall their consent to the embryo relinquishment be required.

e. Upon embryo relinquishment by each legal embryo custodian, in compliance with II.a., the legal transfer of rights to an embryo shall be considered complete, and the embryo transfer shall be authorized.

f. A child born to a recipient intended parent as the result of embryo relinquishment, in compliance with this code, shall be presumed to be the legal child of the recipient intended parent(s).

III. Expedited Adoption Process

a. Prior to the birth of a child or following the birth of a child, a recipient intended parent may petition the court for an expedited order of adoption.

i. The written contract between each legal embryo custodian and each recipient intended parent shall be acceptable as surrender of rights by the legal embryo custodian.

ii. All petitions under this article shall be filed in the Circuit Court of the County in which the intended recipient parent resides.

b. The court shall give effect to any written waiver of notice and service in the legal proceeding for adoption or parentage.

c. In the interest of justice, to promote the stability of embryo transfers, and to promote the interests of children who may be born following such embryo transfers, the court in its discretion may waive

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59 *such technical requirements as the court deems just and proper.*

60 *IV. Finality of Orders of Parentage*

61 *a. Upon a filing of a petition for adoption or parentage and the court finding that such petition*
62 *meets the criteria required by this article, an expedited order of adoption or parentage shall be issued*
63 *and shall be a final order.*

64 *b. Such order shall terminate any future parental rights and responsibilities of any past or present*
65 *legal embryo custodian or gamete donor in a child which results from the embryo transfer and shall*
66 *vest such rights and responsibilities in the recipient intended parent.*

67 *V. Birth Certificate Issuance*

68 *a. Parents who adopt an embryo shall receive a certificate of live birth, or a certificate of fetal*
69 *demise may be issued as appropriate. Further, such parents may submit a report of adoption to the*
70 *State Registrar of Vital Records on a form furnished by the State Registrar, which shall provide*
71 *information necessary to establish a certificate of birth for the adopted person.*