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SUBSTITUTE SENATE BILL 5433

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State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Regala, Winsley and Thibaudeau)

READ FIRST TIME 02/16/01.

1 AN ACT Relating to establishment of parent and child  
2 relationship for children born through alternative reproductive  
3 medical technology; and amending RCW 26.26.030 and 26.26.050.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 26.26.030 and 1985 c 7 s 86 are each amended to read  
6 as follows:

7 The parent and child relationship between a child and

8 (1) the natural mother may be established by proof of her  
9 having given birth to the child, or under this chapter;

10 (2) the natural father may be established under this chapter;

11 (3) an adoptive parent may be established by proof of adoption  
12 or under the provisions of chapter 26.33 RCW;

13 (4) a mother or father may be established under this chapter by  
14 an affidavit and physician's certificate in a form prescribed by  
15 the department of health wherein the sperm donor, donor of ovum,  
16 or surrogate gestation carrier sets forth his or her intent to be  
17 legally bound as the parent of a child or children born through  
18 alternative reproductive medical technology by filing the

1 affidavit and physician's certificate with the registrar of vital  
2 statistics within ten days after the date of the child's birth  
3 pursuant to RCW 26.26.050.

4       **Sec. 2.** RCW 26.26.050 and 1975-'76 2nd ex.s. c 42 s 6 are each  
5 amended to read as follows:

6       (1) If, under the supervision of a licensed physician and with  
7 the consent of her husband, a wife is inseminated artificially  
8 with semen donated by a man not her husband, the husband is  
9 treated in law as if he were the natural father of a child thereby  
10 conceived. The husband's consent must be in writing and signed by  
11 him and his wife. The physician shall certify their signatures and  
12 the date of the insemination, and file the husband's consent with  
13 the registrar of vital statistics, where it shall be kept  
14 confidential and in a sealed file.

15       (2) The donor of semen provided to a licensed physician for use  
16 in artificial insemination of a woman other than the donor's wife  
17 is treated in law as if he were not the natural father of a child  
18 thereby conceived unless the donor and the woman agree in writing  
19 that said donor shall be the father. The agreement must be in  
20 writing and signed by the donor and the woman. The physician shall  
21 certify their signatures and the date of the insemination and file  
22 the agreement, including the affidavit and certification  
23 referenced in RCW 26.26.030, with the registrar of vital  
24 statistics, where it shall be kept confidential and in a sealed  
25 file.

26       (3) The donor of ovum provided to a licensed physician for use  
27 in the alternative reproductive medical technology process of  
28 attempting to achieve a pregnancy in a woman other than the donor  
29 is treated in law as if she were not the natural mother of a child  
30 thereafter conceived and born unless the donor and the woman who  
31 gives birth to a child as a result of the alternative reproductive  
32 medical technology procedures agree in writing that the donor is  
33 to be a parent. A woman who gives birth to a child conceived  
34 through alternative reproductive medical technology procedures  
35 under the supervision and with the assistance of a licensed  
36 physician is treated in law as if she were the natural mother of  
37 the child unless an agreement in writing signed by an ovum donor

1 and the woman giving birth to the child states otherwise. An  
2 agreement pursuant to this section must be in writing and signed  
3 by the ovum donor and the woman who gives birth to the child and  
4 any other intended parent of the child. The physician shall certify  
5 the parties' signatures and the date of the ovum harvest, identify  
6 the subsequent medical procedures undertaken, and identify the  
7 intended parents. The agreement, including the affidavit and  
8 certification referenced in RCW 26.26.030, must be filed with the  
9 registrar of vital statistics, where it must be kept confidential  
10 and in a sealed file.

11 (4) The department of health shall, upon request, issue a birth  
12 certificate for any child born as a result of an alternative  
13 reproductive medical technology procedure indicating the legal  
14 parentage of such child as intended by any agreement filed with  
15 the registrar of vital statistics pursuant to subsection (1), (2),  
16 or (3) of this section.

17 (5) The failure of the licensed physician to perform any  
18 administrative act required by this section shall not affect the  
19 father and child or mother and child relationship. All papers and  
20 records pertaining to the ((insemination)) alternative  
21 reproductive medical technology procedures, whether part of the  
22 permanent record of a court or of a file held by the supervising  
23 physician or elsewhere, are subject to inspection only in  
24 exceptional cases upon an order of the court for good cause shown.

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