

Sperm Donation

When parties to a sperm donation contract in Tennessee negotiate their contract, the parties need to be very clear that the man can not sign away his rights and the potential mother can not waive the child's rights to a relationship with that man.

To reiterate - a Sperm Donation Contract in Tennessee does not terminate the donor's rights or obligations. The Contract is really important because it sets out everyone's intentions (one of which is to terminate his rights and obligations) but it is not sufficient, on its own to accomplish this. To fully terminate his rights and obligations, the couple receiving the donated sperm MUST secure a related-parent adoption after the birth.

Tennessee does have a statute that says that a husband who uses donated sperm to impregnate his wife is the legitimate father of the resulting child. This is in the Vital Records Act and this is applied gender-neutrally to get both lesbian moms on the birth certificate. It DOES NOT say that the donor is relieved of all parental rights or obligations. It is NOT sufficient to fully protect the recipients or donor.

The right to support from a parent is a right the child has, not a right the mother has. If they were married and got divorced, she couldn't just waive child support. If the child were entitled to a big chunk of change in settlement of a personal injury case, the mother couldn't just make that decision for the child. She'd have to get that settlement approved by a judge.

Parties to sperm donation contracts are exploring their mutual values, making plans, memorializing their intentions. Parties are more likely to live up to these plans if they have been counseled well and have reached a mutual meeting of the minds.

Some of the issues I cover when I help clients form a sperm donation contract are:

- 9 Are they are doing fresh donations only or securing frozen samples?
- 9 If doing fresh donations, how will they address the recipients' desire for future children who are full siblings? (Freezing samples for future use makes it possible to have full genetic siblings in the future)
- 9 How are the concerns of the donor's wife/partner being addressed?
- 9 If they are storing sperm, who has the right to use, dispose of, or donate any frozen sperm and under what circumstances?
- 9 What happens to the donated sperm if the recipient couple breaks up?
- 9 If using donated sperm for IVF, who has the right to make decisions about the frozen embryos?
- 9 If there are more embryos frozen than are needed to complete the recipient's family, who decides what is done with them? (Will the recipients dispose of them or donate to another family? Donating to science is really not an option.)
- 9 How will the sperm donor's children be told about their half-sibling?
- 9 How will the recipient's child or children be told about their half-siblings?
- 9 How will the recipients tell the child about the donation?

My recommendation is that the sperm donations be made via a fertility doctor who takes all the samples and freezes any that are not needed immediately for inseminations. The donor should provide several samples because it often takes a few tries to get pregnant. The recipients then have sperm saved to use for future inseminations if the first try doesn't work or if they want another child or if they have to do IVF.

The Agreement needs to include clear provisions about any supernumerary gametes or embryos. If the recipients' plans are to donate any extra sperm or embryos, the Agreement needs to say that specifically that the donor agreed to the donation of his sperm or the embryos formed with his sperm to another recipient for that person to seek to form a family. He can agree to donate to only one person or couple to form their family but he may not want to help other people whom he doesn't even know in this way. If the Agreement isn't clear on this no doctor who is in the American Society for Reproductive Medicine should handle the embryo or sperm donation to secondary recipients. It's a part of their ethics.

FINALLY, you terminate a donor's rights by doing a related-parent adoption after the baby is born. With that Adoption Decree in hand no one can assert parentage and no one can seek to collect any kind of support from him. This Adoption Decree also makes important matters such as inheritance clear.