Assisted Reproduction and Parental Recognition

No updates required since May 10, 2018

States vary in the extent to which they recognize a non-gestational and non-genetic parent as a parent. For example, when a woman consents to have a child with her wife through donor insemination, the non-gestational mother is a legal parent (just as a woman’s husband would be a legal parent of a child they have using donor insemination, even though he is not the biological father). In some states, being married is not a requirement for parental recognition for a non-gestational and non-genetic parent. The process of “consenting to insemination” allows parents in some states a way to establish a legal relationship to the child irrespective of the parents’ marital status. **Note that even if assisted reproduction laws do not exist or apply, other laws may protect married or unmarried parents, depending on the state.**

**California**, marital status neutral, gender neutral
- Cal. Fam. Code 7613

**District of Columbia**, marital status neutral, gender neutral
- DC Code § 16-909

**Delaware**, marital status neutral, gendered language
- 13 Del.C. §§ 8-703, 8-705, 8-102(4).

**Illinois**, Marital status neutral, gender neutral language

**Maine**, Marital status neutral, gender neutral language

**Nevada**, marital status neutral, gender neutral

**New Hampshire**, marital status neutral, gender neutral
New Mexico, marital status neutral, gender neutral

North Dakota, marital status neutral, gendered language
   N.D. Cent. Code Ann. § 14-20-60
   N.D. Cent. Code Ann. § 14-20-02
   N.D. Cent. Code Ann. § 14-20-61
   N.D. Cent. Code Ann. § 14-20-62

Vermont, see H.562 (2018)

Washington, marital status neutral, fully gender neutral

Wyoming, marital status neutral, gendered language

U.S. Territories

American Samoa
   • There is a process to establish parenthood for children born to unmarried couples.

Guam
   • There is a strong presumption of parenthood linked to marriage.

Northern Mariana Islands
   • Parental presumption is linked to marriage, however, there is a process to establish parenthood for children born to unmarried couples.

Puerto Rico
- There is presumption of parentage for married couples and a process through which to establish parentage for unmarried couples.

U.S. Virgin Islands
- There is a process for establishing parentage for a child born to an unmarried couple.