



NEW YORK STATE SENATOR

Liz Krueger

## Krueger Introduces Bill To Strengthen Protections For Surrogacy And Egg And Sperm Donation

LIZ KRUEGER November 15, 2023

| ISSUE: **SURROGACY, EGG AND SPERM DONATION**



**New Legislation Would Build On Existing Child-Parent Security Act Passed In 2021**

**Albany** – Today, State Senator Liz Krueger announced the introduction of new legislation, [S.7749](#), that would strengthen rights and protections for New Yorkers involved in surrogacy or egg or sperm donation. The new bill builds on the framework created by the Child-Parent Security Act, which legalized gestational surrogacy in 2021. Senator Krueger joined Dr. Arthur Caplan of the NYU Grossman School of Medicine this morning in [an op-ed explaining the](#)

need for the bill.

Video of the press conference announcing the bill can be viewed [by clicking here](#).

"When New York State legalized commercial gestational surrogacy and gamete donation, we dove head-first into a rapidly evolving and expanding reproductive healthcare industry," said **Senator Krueger**. "Like many novel industries, this one opens up wonderful opportunities, but also presents challenges and uncertainties. Our first responsibility as a Legislature is to make sure that everyone covered by our laws has their safety, health, and rights protected. By that measure, we have more work to do in properly regulating this field. I hope that this bill will provide the necessary protections for everyone involved in surrogacy and gamete donation, including intended parents, surrogates, donors, and especially children."

Medical advances in assisted reproductive technology (ART) make family building possible today for intended parents who would otherwise be unable to conceive or sustain a successful pregnancy. Gamete donors (i.e. sperm or egg donors) and surrogates enable intended parents who are single, LGBTQ+, cancer survivors, or experiencing infertility issues, to have the children they want.

Gamete donation and surrogacy arrangements are complex, however, because they involve third-parties who provide their gametes and undergo surrogate pregnancy and delivery, but are not the legal parents of the resulting children. Gamete donors and surrogates also assume significant health, fertility, legal, and financial risk. The short- and long-term health impacts of fertility medication and ART on egg donors, surrogates, and donor-conceived and surrogate-born children are poorly understood due to lack of research. Intended parents incur high costs and assume legal and financial risk in their journey to have children using ART, particularly when using surrogacy. For all these reasons, it is crucial to ensure that state

law provides sufficient rights and protections for all parties, including donor-conceived and surrogate-born children.

The Child-Parent Security Act (CPSA), which legalized gestational surrogacy in 2021, established a legal and regulatory framework under which eligible intended parents may enter into a surrogacy agreement and obtain a judgment of parentage that grants them legal parental rights to any children conceived through surrogacy, immediately upon birth. The legal framework also allows eligible intended parents to obtain a judgment of parentage that grants legal parental rights to any children conceived through assisted reproduction. These judicial processes establish legal parental rights for intended parents without having to undergo an adoption process. The CPSA built in protections by establishing a Surrogates' Bill of Rights and regulation of surrogacy agreements, surrogacy programs, and clinical practices.

S.7749 would strengthen and build upon the current framework by:

- Strengthening medical, legal, and financial protections for surrogates and intended parents, and establishing these protections for the first time for gamete donors and intended parents who participate in gamete donation agreements;
- establishing a comprehensive informed consent process for gamete donors, surrogates, and intended parents;
- creating a Bill of Rights for Donor-Conceived and Surrogate-Born Individuals to ensure they can access information about their origins and the medical information they may need;
- providing for regulation of gamete donation agreements, marketing, and clinical practices;
- establishing timely gamete donation policies to provide oversight of a rapidly advancing area of health care; and

- establishing the Central Assisted Reproduction Registry (CARR) to enable tracking and enforcement of state policies and to facilitate research.

**To read more details about the provisions of S.7749, [click here](#).**

**Wendy Chavkin**, MD, MPH Professor (Emerita) Public Health and Obstetrics Gynecology, **Columbia University Medical Center**, said:

"This bill is important and novel as it aims to protect the health and rights of all the participants: those who provide the sperm and the eggs, those who act as surrogates, the children born of these arrangements and the intended parents. The bill calls for cautious use of the best medical practices as there are known risks for each, and much that we don't know. It establishes a thorough informed consent process so that all parties understand the risks and benefits of each medical intervention, and also understand whose interests the doctor represents. It is in the interests of all the participants and the public health to do our best to protect the health of all."

**Yasmine Ergas**, Director, Gender & Public Policy Specialization, School of International and Public Affairs, **Columbia University**, said:

"This bill protects the rights of all parties involved in gamete donation and surrogacy arrangements. It establishes two new bills of rights: one for children and one for gamete donors. It helps ensure that surrogates will have effective access to the rights set out in their own bill of rights. It stipulates that physicians should follow best medical practices. It facilitates securing health insurance for surrogates and gamete donors. It bolsters the provisions regarding informed consent for all parties. And, it requires transparency regarding gamete donors' compensation. With this essential legislation, New York can be a leader in an area that is vital to so many people's lives."

**Arthur Caplan**, PhD, Mitty Professor of Bioethics, **NYU Grossman School of Medicine**, said:

"Senator Krueger's bill to strengthen protections for surrogacy and egg and sperm donation is important, visionary and worthy of rapid enactment. Despite growing demand, the legal framework for fertility services has lagged behind. This legislation calls for protections that will empower donors, surrogates, consumers and, most importantly, children created through novel modalities. New Yorkers require an ethical and legal framework to guide assisted reproduction in the twenty-first century. Senator Krueger has provided exactly that."

**Laura Briggs**, Professor, Women, Gender, Sexuality Studies, **University of Massachusetts Amherst**, said:

"Members of the LGBT community have as much interest as anyone in ensuring that the gamete donors or surrogates who help create their kids have their health and rights protected. Our community has a painful history of losing our kids, and we want strong, clear, and fair legal contracts. I am a lesbian with a donor-conceived kid, and I have a life-long connection to the donor who made his life possible. If my kid should develop a serious illness, I want him to be able to obtain any health information that would help him get treated. And finally, members of the LGBT community are also gamete donors and surrogates, and want the protections this bill offers for that reason as well."

**Sara Lamm**, documentary filmmaker/donor conceived adult, said:

"As a donor conceived person I can attest to a fact that we all should keep in mind: namely that donor conceived babies grow up to be donor conceived adults with the same human question as everyone else—'Who am I?' An accurate birth certificate is a necessity, because it empowers us to know the truth of how we got here, to understand our health history, and to

make meaning of the biological and familial relationships that quite literally gave us our lives. We have a right to this information, and I am pleased this bill recognizes us as a group that deserves care and attention.”

**Liz Scheier**, Media Liaison, **We Are Egg Donors**, said:

"Egg donors are routinely misled about the long-term health impact of their donations, and about the impact of anonymous donation. I'm eager to see "informed consent" forms and consultations contain real information donors can use to make their decision, and Senator Krueger's bill will help to do just that."

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#### RELATED LEGISLATION

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### **2023-S7749**

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- Introduced
- - In Committee Assembly
  - In Committee Senate
- - On Floor Calendar Assembly
  - On Floor Calendar Senate

- ○ Passed Assembly
  - Passed Senate
- Delivered to Governor
- Signed By Governor
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Relates to surrogacy programs and agreements

November 13, 2023

In Senate Committee [Judiciary](#)

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Do you support this bill?