

August 1, 2024

VIA EMAIL

Act 156 Task Force on Parentage Laws
c/o Department of the Attorney General, Appellate Division
425 Queen Street
Honolulu, Hawai'i 96813
tammy.d.tam@hawaii.gov; derek.r.matsumoto@hawaii.gov

Re: Supplemental Information on Importance of Recommending the Inclusion of Article 9 of the 2024 Uniform Parentage Act

Dear Hawaii Task Force on Parentage Laws:

On behalf of U.S. Donor Conceived Council (“USDCC”), we hereby submit these supplemental comments on the importance of including the 2024 Article 9 of the Uniform Parentage Act (“UPA”) in the reports and draft bills prepared by the Task Force. USDCC is one of two nonprofits in the United States formed and led by donor conceived people to advocate for greater recognition of their needs and interests. These supplemental comments respond to requests for additional information on certain topics, including: (1) the impact of 2024 Article 9 on cost and access to donor gametes in Hawaii; (2) the impact on gamete banks and fertility clinics licensed in Hawaii; and (3) why it is important to require all future donors to consent to identity release at 18.

1. 2024 Article 9 Will Not Significantly Increase Costs or Reduce Access

2024 Article 9 will not harm access to donor gametes in Hawaii. Like other states, most donor sperm used in Hawaii is shipped from other states by a handful of companies whose stock together comprises a large percentage of all available sperm and egg donors. **These companies require all new egg and sperm donors to consent to being identity release donors.**¹ For example, just four sperm banks (all of which require new donors to be identity release donors) account for approximately 65% of all available donors.² Likewise, just three egg banks account for approximately 50% of all donor egg cycles in the U.S.³

¹ These companies include but are not limited to Fairfax Cryobank, California Cryobank, Seattle Sperm Bank, and The Sperm Bank of California. See S. Dominus, *Sperm Donors Can't Stay Secret Anymore*, NY Times (June 26, 2019), <https://www.nytimes.com/2019/06/26/magazine/sperm-donor-questions.html>; see also Seattle Sperm Bank, <https://www.seattlespermbank.com/questions-to-ask-your-sperm-bank/>; The Sperm Bank of California, <https://www.thespermbankofca.org/get-started/choose-a-donor/>; Fairfax Cryobank, <https://fairfaxcryobank.com/privacy-policy>.

² Communications with sperm bank representatives (Fairfax Cryobank, California Cryobank, Seattle Sperm Bank, and The Sperm Bank of California).

³ Communications with egg bank representatives (My EggBank, Fairfax EggBank, Donor Egg Bank USA).

Second, there is no evidence that requiring identity release donation in 2024 will significantly increase the cost of donor gametes compared to the cost of “anonymous” donor gametes. This is because donor anonymity can no longer be promised to gamete donors given the rise of direct-to-consumer genetic testing and other technologies, such as facial recognition software. Indeed, one of the largest sperm banks in the world disclosed to USDCC and several other stakeholders that only about 2% of potential gamete donors drop out of the screening process due to the identity disclosure requirement.⁴

As reflected in the table below, publicly available data shows that the cost of identity release donor sperm is not significantly greater than the cost of anonymous donor sperm. The average price difference is \$147 per vial. As one sperm bank states on its website, “we charge the same amount per vial based on vial processing type, not on the type of identity disclosure of the donor you choose. We do not want cost to be an influencing factor when you’re making this important choice.”⁵ Instead, cost increases are being driven by other factors, including the increased demand for donor sperm.

Cost of Identity Release v. “Anonymous” Donor Sperm			
Sperm Bank⁶	Identity Release (IUI)	“Anonymous” (IUI)	Price Difference
Cryobio	\$1170	\$1170	\$0
Cryos	\$1545	\$1445	\$100
Repro Lab	\$925	\$800	\$125
Midwest Sperm Bank	\$750	\$600	\$150
Xytex	\$1250	\$1100 (average)	\$150 (average)
Fairfax Cryobank	\$1395	\$1195	\$200
Cascade Cryobank	\$1000	\$700	\$300
Average	\$1147	\$1000	\$147

⁴ Communications with sperm bank representatives (California Cryobank).

⁵ Cryobio, available at <https://cryobio.com/additional-resources/costs-and-pricing/>

⁶ The data in this table is taken from the sperm banks’ websites as of August 2024.

It is important to note that even “anonymous” donors are open to connecting with their donor conceived offspring, with one large international sperm bank reporting that they were able to connect 70% of anonymous donors to their donor conceived offspring.⁷ Finally, there is evidence that identity release donation can improve sperm donor recruitment. One large study (by Cryos) found that potential identity release donors are more likely to progress through the screening process than non identity release donors.⁸ This study also found that more potential anonymous donors who begin the screening process switch to identity release donors than the other way around.⁹

2. Gamete Banks and Fertility Clinics Licensed In Hawaii

2024 Article 9 of the UPA applies to gamete banks and fertility clinics “licensed in” Hawaii. There are multiple gamete banks and fertility clinics with licenses in Hawaii. One is owned and/or operated by a member of the Task Force—Dr. John Frattarelli (Advanced Reproductive Medicine and Gynecology of Hawaii). In addition, according to CDC data, all of the fertility clinics in Hawaii run egg-donor recruitment programs.¹⁰

Gamete Banks and Fertility Clinics “Licensed In” Hawaii		
Company Name	Doing Business As:	Notes
Advanced Reproductive Medicine and Gynecology of Hawaii	Sperm Bank of Hawaii Egg Bank of Hawaii Embryo Bank of Hawaii	Affiliate of California Cryobank and Donor Egg Bank USA
Advanced Reproductive Center of Hawaii	N/A	Affiliate of My Egg Bank
Pacific IVF Institute	N/A	
Tripler Army Medical Center IVF Institute	N/A	
IVF Hawaii	N/A	
Cooper Surgical	California Cryobank Donor Egg Bank USA	

⁷ Communications with sperm bank representatives (California Cryobank).

⁸ A. Pacey, et al., *An Analysis of The Outcome of 11712 Men Applying to Be Sperm Donors in Denmark and the USA*, Human Reproduction (2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9977131/>

⁹ *Id.*

¹⁰ CDC, *Archived ART Reports*, available at <https://www.cdc.gov/art/reports/archive.html>

In addition, 2024 Article 9 of the UPA would apply to the companies listed above even if they do not collect donor gametes in Hawaii because they import donor gametes *into* Hawaii and 2024 Article 9 contains applicable requirements for such activities.

3. Why Require All Donors to Consent to Identity Release at 18?

As explained in our initial comment letter, it is important to require all donors to consent to identity release at 18 for several reasons. First and foremost, many donor conceived people have a strong desire to know the donor's identifying information but it is not known in advance which donor conceived people will request the information. As such, it is important to require all donors to be identity release donors to address the needs of the large number of donor conceived people who desire the information. Second, it is important to require all donors to consent to identity release because, as stated above, it is no longer possible to promise donors anonymity due to the rise of direct-to-consumer genetic testing and other technologies.

Conclusion

For these many reasons, USDCC respectfully urges the Task Force to include 2024 Article 9 of the UPA in its reports and draft bills. We appreciate your time and consideration of this important matter and would be happy to answer any questions that the Task Force may have regarding 2024 Article 9.

Sincerely,

/s/ Tyler Levy Sniff

Tyler Levy Sniff
Vice President of Legal & Government Affairs
U.S. Donor Conceived Council
tsniff@usdcc.org