

August 26, 2022

Dear Senate President Atkins and Assembly Speaker Rendon:

We write in support of AB 1896, with the agreed-upon amendments that were developed in collaboration with a number of stakeholders such as donor-conceived people, medical providers, gamete banks, and LGBTQ advocates.

Background

We are LGBTQ organizations deeply committed to LGBTQ families and their children so that they can truly thrive in our communities.

For over thirty years, COLAGE has been the only national organization expressly dedicated to supporting people with one or more LGBTQ+ caregivers, uniting them with a network of peers and supporting them as they nurture and empower each other to be skilled, self-confident, and just leaders in their communities. COLAGE's donor conceived community is a core constituency for our organization and we are proud to represent their interests with regard to AB 1896.

Family Equality is a national organization that exists to create a world where everyone can experience the unconditional love, safety, and belonging of family. Family Equality works to ensure that LGBTQ+ individuals have the freedom to form and sustain their families by advancing legal and lived equality for the LGBTQ+ community. Since its founding in 1979, Family Equality has used advocacy and public education to change attitudes, laws, and policies that are harmful to LGBTQ+ families and individuals. From filing "storytelling" amicus briefs in key cases impacting LGBTQ+ families to public education and legislative advocacy, Family Equality is a leading voice for LGBTQ+ families across the United States.

GLBTQ Legal Advocates & Defenders ("GLAD") works in New England and nationally to promote justice on the basis of sexual orientation, gender identity and expression, and HIV status. GLAD has a long history of working to protect LGBTQ families, particularly ensuring that the lives of children are stable and secure. Nationally, GLAD has been a leader in establishing and protecting the fundamental right to marry and its attendant benefits, including rights and responsibilities vis a vis children, through our work on cases including *Obergefell v. Hodges*, 135 S. Ct. 1039 (2015) and *Pavan v. Smith*, 137 S. Ct. 2075 (2017). GLAD has successfully worked in coalition to pass legislation promoting the security of children regardless of the circumstances of their birth,

including children born through assisted reproduction, to nonmarital parents, and to LGBTQ parents.

The National Center for Lesbian Rights (“NCLR”) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) people and their families through litigation, public policy advocacy, and public education. Family law and the formation of families by LGBTQ parents has been a core aspect of NCLR’s work since our founding in 1977. NCLR has national expertise in the legal rights and needs of LGBTQ families formed through assisted reproduction. NCLR served as an Observer on the Drafting Committee for the Uniform Parentage Act of 2017, has been involved in legislation addressing assisted reproduction and the recognition of LGBTQ parents and their children across the country, and has litigated numerous cases at the appellate level addressing the rights of LGBTQ parents and their children.

Building Families

For many people, there is a deep longing to care for children and to nurture a new generation. There are many ways to build a family, and there is a great diversity of family structures in the United States. Assisted reproduction using gamete donation is one of the many ways that people, including those struggling with infertility, single parents, and LGBTQ people, seek to build their families.

Speaking from the perspective of LGBTQ families, assisted reproduction is a means to joyfully form a family with children and welcome them into the world. Careful planning is essential to build a family through assisted reproduction and gamete donation, including donation of sperm, egg, and embryos.¹ Unfortunately, significant barriers exist for LGBTQ people who wish to build families through assisted reproduction. According to Resolve, the National Infertility Association, only nineteen states have passed fertility insurance coverage laws.² No state Medicaid plan provides comprehensive coverage for fertility care. Even in states that provide some access to insurance for fertility care, LGBTQ people face additional requirements or barriers to accessing that care and bringing children into our families.

After intentionally and thoughtfully welcoming children, LGBTQ parents also experience barriers to protecting their children due to a patchwork of legal protections across the

¹ See Nat’l Acads. of Scis., Eng’g, and Med., *Understanding the Well-Being of LGBTQI+ Populations*, 181-183 (2020).

² See Resolve, *Insurance Coverage by State*, <https://resolve.org/learn/financial-resources-for-family-building/insurance-coverage/insurance-coverage-by-state/>.

country for children born through assisted reproduction. The Uniform Law Commission recently issued an important update to its model act - the Uniform Parentage Act of 2017 - to recommend to states that they comprehensively update parentage protections to ensure that all families can secure legal recognition of their children's parentage regardless of the gender, sexual orientation, or marital status of the parents or the circumstances of the child's birth through, for example, assisted reproduction.³ Although a number of states have acted to update their parentage laws to protect children born through assisted reproduction to LGBTQ parents, much more work is needed to ensure that children of LGBTQ parents have equal access to the security of a legal parent-child relationship.⁴ For children who lack parentage protections, the results can be devastating, including lack of access to benefits, involvement in state child welfare systems, and separation from beloved parents.

As organizations, we routinely hear from LGBTQ community members facing barriers to building and protecting their families. In our work, we are committed to reducing economic and legal barriers to building families and to increasing protections for children and families. It is very important for the LGBTQ community that assisted reproduction, including gamete donation, is accessible, affordable, and provided in a nondiscriminatory and inclusive way.

The Bill - AB 1896

As with any community, children and adults who were conceived through gamete and embryo donation and their families are a diverse and multi-faceted community. For LGBTQ parents within this community, there is a commitment to openness and honesty with children about the circumstances of their birth through assisted reproduction and donor gametes.

As organizations representing the LGBTQ community, including children and adults with LGBTQ parents, LGBTQ parents and those who wish to become parents, and families, we support laws that create a structure for open and honest communication about family origins. We support AB 1896 for two reasons. First, the bill was the product of collaboration and involvement across many key stakeholder groups. As a result of this collaboration and engagement, amendments were made to address stakeholder concerns and improve the bill. Second, the bill provides for and facilitates important education of providers of gametes and embryos and intended parents, and we believe

³ Uniform Parentage Act (UPA) 2017.

⁴ See Douglas NeJaime, *The Nature of Parenthood*, 126 Yale L.J. 2260, 2367-68 (2017) (App. B); Courtney G. Joslin, *(Not) Just Surrogacy*, 109 Calif. L. Rev. 401 (2021).

that this education will support openness and transparency in a way that will promote the well-being of children and families.

We are grateful for the opportunity to share the perspectives and interests of the LGBTQ community in this process, and we look forward to continuing to engage and collaborate to address these important issues.

Sincerely yours,

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