



2019 Edition

Birth and Conception in Connecticut

A Guide to Resources in the Law Library

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Introduction

A Guide to Resources in the Law Library

- **Public policy:** "It is declared that the public policy of this state has been an adherence to the doctrine that every child born to a married woman during wedlock is legitimate." **Conn. Gen. Stat. § [45a-771](#)**(a) (2019).
- "We are dealing here with legislation which involves one of the basic civil rights of man. Marriage and procreation are fundamental to the very **existence and survival of the race.**" [Skinner v. Oklahoma](#), 316 U.S. 535, 541, 62 S. Ct. 1110, 88 L.Ed. 1655 (1942).
- **Words of inheritance to apply to child conceived through A.I.D.:** "(a) The words "child", "children", "issue", "descendant", "descendants", "heir", "heirs", "unlawful heirs", "grandchild" and "grandchildren", when used in any will or trust instrument, shall, unless the document clearly indicates a contrary intention, include children born as a result of A.I.D. (b) The provisions of this section shall apply to wills and trust instruments whether or not executed before, on or after October 1, 1975, unless the instrument indicates an intent to the contrary." Conn. Gen. Stat. § [45a-778](#) (2019).

Section 1: Artificial Insemination

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to artificial insemination with donor sperm or eggs (A.I.D.), including status of child born and the rights of the donor in Connecticut.

DEFINITIONS:

- **Artificial insemination** "means a medical procedure in which the fertilization of a human egg is assisted through artificial means and includes, but is not limited to, intrauterine insemination and in vitro fertilization" Conn. Gen. Stat. § [45a-771a](#)(1) (2019).
- **Artificial insemination with donor sperm or eggs or A.I.D.** "means artificial insemination with the use of donated sperm or eggs from an identified or anonymous donor." Conn. Gen. Stat. § [45a-771a](#)(2) (2019).
- "The words '**child**', '**children**', '**issue**', '**descendants**', '**descendant**', '**heirs**', '**heir**', '**unlawful heirs**', '**grandchild**' and '**grandchildren**', when used in the singular or plural in any will or trust instrument, shall, unless such document clearly indicates a contrary intention, be deemed to include children born after the death of the decedent, as provided in subsection (a) of section 45a-785. The provisions of this subsection shall apply to wills and trust instruments whether or not executed before, on or after October 1, 2013, unless the instrument indicates an intent to the contrary." Conn. Gen. Stat. § [45a-262](#)(b) (2019) (emphasis added).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2019)
[Chapter 802a](#). Wills: execution and construction
§ [45a-257b](#). Failure of testator to provide for children born or adopted after execution of will. Determination of share of estate.
[Chapter 803](#). Termination Of Parental Rights And Adoption
§ [45a-724](#)(a)(2) and (3). Who may give child in adoption
§ [45a-731](#)(5)(6)(7) Effects of final decree of adoption. Surviving rights.
[Chapter 803a](#) Children Conceived Through Artificial Insemination
§ [45a-771](#). Child born as a result of artificial insemination legitimate
§ [45a-772](#). A.I.D. Who may perform. Consent required
§ [45a-773](#). Request and consent to be filed in Probate Court. Confidentiality.
§ [45a-774](#). Status of child born as result of A.I.D.

§ [45a-775](#). No rights in donor of sperm or eggs
 § [45a-776](#). Status of child determined by jurisdiction of birth
 § [45a-777](#). Inheritance by child conceived as a result of A.I.D.
 § [45a-778](#). Words of inheritance to apply to child conceived through A.I.D.
 § [45a-779](#). Status of child conceived through A.I.D., born prior to October 1, 1975
 § [45a-785](#). Property rights of child of decedent conceived and born after death of decedent. Written document re posthumous conception of child. Probate Court jurisdiction.

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- P.A. 13-301, [An Act Concerning the Inheritance Rights of a Child Who is Born after the Death of a Married Parent](#).
 - [OLR Summary](#)
- Katherine Dwyer, *Inheritance Rights of Posthumously Conceived Children*, Connecticut General Assembly. Office of Legislative Research Report, [2012-R-0240](#) (June 19, 2012).
- Jennifer Brady, *Summary of Raftopol v. Ramey*, Connecticut General Assembly. Office of Legislative Research Report, [2011-R-0094](#) (February 25, 2011).
- Meghan Reilly, *Infertility Coverage and Age Discrimination*, Connecticut General Assembly. Office of Legislative Research Report, [2008-R-0106](#) (February 14, 2008).
- P.A. 07-93, [An Act Concerning Artificial Insemination by Donor](#).
 - [OLR Summary](#)
- P.A. 75-233. (Substitute H.B. 5147). An Act Concerning the Status of Children Conceived Through Artificial Insemination.

FORMS:

- 13C [American Jurisprudence Legal Forms](#) 2d (2002 rev.).
 - Chapter 191. Parent and child
 - § 191:108. Agreement for artificial insemination—Between husband, wife, and donor—Identity of donor known
 - § 191:109. Agreement for artificial insemination—Between recipient and donor—Identity of donor known
 - § 191:110. Agreement for artificial insemination—By recipient and physician—Identity of donor unknown
 - § 191:111. Agreement for artificial insemination—By donor or intermediary—Identity of recipient unknown

- 6 Arnold H. Rutkin, [Family Law and Practice](#) (2019) § 63.09[2][a]. Form: Consent of Husband to Artificial Insemination of Wife
- 2 Jeff Atkinson, [Modern Child Custody Practice](#), 2nd Ed. (2018).
Chapter 9. Third party custody and visitation.
§ 9.20. Custody and visitation for children raised by couples of the same sex

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Barse v. Pasternak](#), Superior Court, Judicial District, New Britain, No. HHB-FA12-4030541-S. (Jan. 16, 2015) (2015 WL 600973). **"For the reasons discussed more particularly below, this court concludes that, under the circumstances in this case, the plaintiff is presumed to be the minor child's legal parent irrespective of whether she conceived or adopted the child, complied with the artificial insemination statutes, or entered into a valid gestational agreement, and, the child therefore is presumed to be legitimate."**
- [Commissioner of Social Services v. Lewis](#), Superior Court, Judicial District of Hartford, No. FA114059024S (Oct. 21, 2013) (56 Conn. L. Rptr. 937). **"The defendant and the plaintiff did agree in their dissolution agreement that the *parties* would destroy the embryos (emphasis added). They did not. Further, the magistrate found that although the dissolution judgment required the destruction of the embryos, the defendant signed a prior consent for the IVF and then after the child was born, volitionally signed the acknowledgment of paternity and therefore the defendant 'essentially sandwiched the dissolution order with both prior and subsequent consent recognizing the subject child.'"**
- [Laspina-Williams v. Laspina-Williams](#), 46 Conn. Supp. 165, 169-171, 742 A.2d 840 (1999). **"The defendant argues that because the plaintiff has no biological tie to the child, the plaintiff cannot be and never was a parent to the minor child under Connecticut law and thus the plaintiff fails to meet the requirement that the *parents* were not involved in any case or controversy currently before the court.'** (Emphasis added.)" ... **"The defendant further contends that although the parties were accepted by friends and others to be a family, because Connecticut law would not recognize the parties and the minor child as 'family' there can be no claim that the 'family unit was no longer intact.'"** ... **"The court finds the foregoing arguments of the defendant unpersuasive. Under § 46b-59 'any person' may seek visitation of a minor child as opposed to only persons with a biological tie to the child."** ... **"Without addressing or labeling the**

status of the relationship of the parties, the defendant allowed, even encouraged, the plaintiff to assume a significant role in the life of the child such that she is a party entitled to seek visitation with the child. Accordingly, the defendant's motion to dismiss on this **ground is denied.**"

- Bilbao v. Goodwin, 65 Conn. L. Rptr. 357 (2017 WL 5642280). **"The parties"** ... "could not agree on the disposition of cryopreserved embryos from eggs that the parties had harvested from the plaintiff, with the plan to have an additional child." ... **"There are no Connecticut** appellate cases addressing ownership of cryopreserved embryos in a divorce action. Only one superior court has addressed the issue. Mate v. Mate, Superior Court, judicial district of Fairfield, Docket No. FA-16-6071615-**S (September 26, 2012, Adelman, J.)....**" "In Mate, Judge Adelman surveyed the law in all fifty states and determined that courts have adopted one of three methods to determine ownership of cryopreserved embryos: (1) the contract approach; (2) a contemporaneous mutual consent approach; or (3) a balancing approach. See Szafanski v. Dunston, 993 N.E.2d 502, 506, 373 Ill.Dec. 96, cert. denied, 996 N.E.2d 24, 374 Ill.Dec. 577 (2013)." ... **"Under [the balancing] approach, courts enforce contracts between the parties, at least to a point, then balance their interests in the absence of an agreement.' Id., 512."** **"The plaintiff's interest in the control and management of her eggs outweighs any interest the defendant may have in donating them to strangers."** ... **"The embryos shall be the property of the plaintiff."** (On appeal to the Connecticut Supreme Court, Docket No. [SC 20078](#).)
- In re Simon A. W., 1997 Conn. Super. LEXIS 1480 (Jud. District, New Haven, No. NO5-CP97-009105-A, May 27, 1997) 1997 WL 309576. "The provisions of Chapter 803a (Sec. 45a-771 through 779) entitled 'Children Conceived through Artificial Insemination' shed no light on this case since, despite its title, they relate exclusively to children conceived by married women through artificial insemination by anonymous donors. Simon A.W. was conceived by Wendy through artificial insemination by a known donor, Simon M.W., whose name appears on the birth certificate and who has regarded himself, and been regarded by both the Probate and Superior Court, as the acknowledged father of a child born out of wedlock, entitling him to all of the rights of a joint guardian of the person of his biological son. Sec. 45a-606."

ENCYCLOPEDIAS:

- 59 [Am. Jur.](#) 2d *Parent and Child* (2012).
 - § 5. Definitions—"Surrogate parent"; "gestational mother"
 - § 7. Definitions—"Child artificially inseminated"
 - § 8. Definitions—"Family"
 - § 36. Right of visitation
- *Sperm Bank Liability For Donor Semen Transmitting AIDS*, 25 [Am. Jur. POF 3d](#) 1 (1994).
- Proof of Facts Concerning Disposition of Frozen Pre-Embryos in Connection with Divorce Action, 159 [Am. Jur. POF 3d](#) 339 (2017).
- *Legitimation of Child by Father Seeking Custody of Child*, 14 [Am. Jur. POF 2d](#) 727 (1977).
- *Liability of Sperm Banks*, 50 [Am. Jur. Trials](#) 1 (1994).

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 8 Arnold H. Rutkin et al. [Connecticut Practice Series. Family Law and Practice With Forms](#) (3d ed. 2010).
 - Chapter 42. Child custody and visitation
 - § 42: 3. Custody rights relating to adopted children, step children and other nonbiological relationships
 - § 42: 14. Custody claims by third parties – Assisted reproduction
- 6 Arnold H. Rutkin, [Family Law and Practice](#) (2019).
 - Chapter 63. Paternity Proceedings
 - § 63.09. Assisted conception
 - Chapter 64A. Law of alternative reproductive technologies
 - § 64A.04. Legal issues involved in artificial insemination
 - [1] Introduction
 - [2] Who may perform artificial insemination
 - [3] Donor and recipient
 - [4] Parentage where artificial insemination is by the husband
 - [5] Legal issues involved in artificial insemination by non-husband sperm donor
- 1 Sandra Morgan Little, [Child Custody & Visitation Law & Practice](#) (2019).
 - Chapter 1. Overview: development of the law of child custody and visitation
 - § 1.02. The changing definition of "parent": assisted procreation
 - [2] Types of assisted procreation
 - [b] Artificial insemination
 - [3] Assisted procreation and the Constitution

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [4] Preconception intentions versus genetic links
- [5] State parentage laws and assisted procreation
 - [a] Generally
 - [b] Paternal rights
 - [i] Presumption of legitimacy
 - [ii] Artificial insemination
 - [c] Maternal rights

- 2 Sandra Morgan Little, [Child Custody & Visitation Law & Practice](#) (2019).

Chapter 11A. Assisted reproductive technologies and collaborative reproduction

§ 11A.01. Clarification of terminology used in ARTs and collaborative reproduction

§ 11A-02. Medical aspects of ART: What is ART?

§ 11A-03. Parentage issues in ARTs

§ 11A-04. Compare adoption: Why ARTs demands a different approach

§ 11A-06. Case law on ARTs

§ 11A-07. Agreements on embryo preservation or other disposition

§ 11A-08. Preparing collaborative reproduction agreements

- 2 Nina M. Vitek, [Disputed Paternity Proceedings](#) (5th Ed. 2019).

Chapter 17. Assisted reproduction: Constitutional and family law parameters

§ 17.01. Keep your focus on the children

§ 17.02. Assisted reproduction and collaborative reproduction

§ 17.03. Directives and agreements

§ 17.04. Adoptions is for children; Donation is for embryos

§ 17.05. Checklist for counseling ART clients

§ 17.06. Assisted reproduction case law

Appendix 17B.02 State laws re: Artificial insemination

- 3 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2018).

Chapter 14. Assisted reproductive technologies, collaborative reproduction, and adoption

§ 14.05. Statutory overview of collaborative reproduction

§ 14.06. Case law on ARTs

§ 14.08. Preparing collaborative reproduction agreements

§ 14.20. Charts summarizing state statutes on ARTs

[2]. Artificial insemination

- 1 Thomas R. Young, [Legal Rights of Children](#), 3 Ed. (2018-2019).
Chapter 7. Inheritance laws and paternity rights of illegitimate children
§ 7:15. Artificial insemination as affecting paternity
§ 7:16 -- Same sex relationships

ALR INDEX:

- [ALR Index: Artificial Insemination](#)

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Daryl Gordon-Ceresky, Note, *Artificial Insemination: Its Effect on Paternity and Inheritance Rights*, 9 Connecticut Probate Law Journal 245 (1995).
- Nicole M. Riel, *The Other Mother: Protecting Non-Biological Mothers in Same-Sex Marriages*, 31 Quinnipiac Prob. L.J. 387 (2018).
- Judith A. Hoechst, *Fifty-Something and Pregnant: How ART Has Extended Fertility – And Generated New Legal Concerns for Parents and Children*, 39 Family Advocate 6 (Winter 2017).
- Kathryn McColl Sargent, *Recent Connecticut Legislation on Inheritance Rights of Children Conceived Posthumously Via In-Vitro Fertilization*, 89 Conn. B.J. 149 (2016).
- Family Advocate, *Assisted Reproductive Technologies*, Vol. 34, No. 2. (Fall 2011).
- Jessica Feinberg, *A Logical Step Forward: Extending Voluntary Acknowledgements of Parentage to Female Same-Sex Couples*, 30 Yale J. of L. & Feminism (2018).
- Tiffany L. Palmer, *The Winding Road to the Two-Dad Family: Issues Arising in Interstate Surrogacy for Gay Couples*, 8 Rutgers J.L. & Pub. Pol'y 895 (Spring, 2011).
- June Carbone and Naomi Cahn, *Marriage and the Marital Presumption Post-Obergefell*, 84 Univ. of Missouri L. Rev. 663 (Spring, 2016).

Section 2: Surrogacy

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to surrogacy in Connecticut including payments to surrogate and contents of gestational agreement.

DEFINITION:

- **“For a fee of \$10,000, a woman agrees to be artificially inseminated with the semen of another woman’s husband; she is to conceive a child, carry it to term, and after its birth surrender it to the natural father and his wife. The intent of the contract is that the child’s natural mother will thereafter be forever separated from her child. The wife is to adopt the child, and she and the natural father are to be regarded as its parents for all purposes.”** [In the Matter of Baby M.](#), 537 A.2d 1227, 1234 (N.J., 1988).
- **“The relevant facts and procedural history are undisputed. On January 25, 1994, the petitioner, Mary Doe, signed a surrogacy contract with the named respondent, John Roe, to carry a child fathered by him through artificial insemination. The petitioner further agreed to voluntarily surrender custody of the child to the named respondent and his wife, Jane Roe, upon birth, and to allow for the subsequent adoption of the child by Jane Roe. Jack Roe (child), who was conceived pursuant to this surrogacy contract, was born on December 13, 1994. Immediately after the child’s birth, the petitioner turned him over to the respondents in accordance with the parties’ surrogacy contract.”** [Doe v. Roe](#), 246 Conn. 652, 653, 717 A.2d 706 (1998).
- **Equitable parent doctrine rejected:** [Doe v Doe](#), 244 Conn. 403 (1998); [Barse v. Pasternak](#), Superior Court, Judicial District, New Britain, No. HHB-FA12-4030541-S. (Jan. 16, 2015) 59 Conn. L. Rptr. 801.
- **Gestational agreement:** “means a written agreement for assisted reproduction in which a woman agrees to carry a child to birth for an intended parent or intended parents, which woman contributed no genetic material to the child and which agreement (A) names each party to the agreement and indicates each party’s respective obligations under the agreement, (B) is signed by each party to the agreement and the spouse of each such party, if any, and (C) is witnessed by at least two disinterested adults and acknowledged in the manner prescribed by law”. **C.G.S. § 7-36**(16).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2019)
[Chapter 93](#) – Registrars of Vital Statistics
§ [7-48a](#). Filing of original certificate of birth.
Gestational agreement: Replacement certificate of birth.

[Chapter 815j](#) – Dissolution of Marriage, Legal Separation and Annulment
§ [46b-56](#). Orders re custody, care, education, visitation and support of children. Best interests of the child.
§[46b-56b](#). Presumption re best interest of child to be in custody of parent

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- Katherine Dwyer, *Gestational Agreements*, Connecticut General Assembly. Office of Legislative Research Report, [2014-R-0074](#) (March 10, 2014).
- P.A. 11-153, [An Act Concerning the Creation of a Replacement Birth Certificate Pursuant to a Gestational Agreement](#).
 - [OLR Summary](#)

FORMS:

- 13C [American Jurisprudence Legal Forms](#) 2d (2002 rev.). Chapter 191. Parent and child
§ 191:99. Surrogate parenting agreement
- [Nichols Cyclopedia of Legal Forms Annotated](#) (2006). Parent and Child
Surrogate parenting transactions §§ 148:77 - 148:98
§ 148.78 Surrogate parenting agreement
§ 148.91 Surrogate application form

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Raftopol v. Ramey](#), 299 Conn. 681, 708, 12 A.3d 783 (2011) **"On the basis of our analysis of both the text of the statute, as well as its legislative history, we conclude that the legislature intended § 7-48a to confer parental status on an intended parent who is a party to a valid gestational agreement irrespective of that intended parent's genetic relationship to the children. Such intended parents need not adopt the children in order to become legal parents. They acquire that status by operation of law, upon an order by a court of competent jurisdiction pursuant to § 7-48a."**
- [Griffiths v. Taylor](#), Superior Court, Judicial District of Waterbury, No. FA084015629, (June 13, 2008). 45 Conn. L. Rptr. 725. "[I]t is clear that the legislature contemplated that a Superior Court would have the authority, under § 7-48a, to enter a judgment on the

validity of a gestational agreement and that where there is a valid gestational agreement, the court may then order the Department of Health to issue a replacement birth certificate with the names of the intended parents on it.”

- [Doe v. Roe](#), 246 Conn. 652, 653, 717 A.2d 706 (1998). “The narrow question presented by this appeal is whether the Superior Court has subject matter jurisdiction to render judgment in accordance with an agreement that includes a promise by a surrogate mother to consent to the termination of her parental rights in Probate Court.”
- [In the Matter of Baby M](#), 537 A.2d 1227, 109 N.J. 396, 77 ALR4th 1 (1988).

ENCYCLOPEDIAS:

- Ardis L. Campbell, *Determination of status as legal or natural parents in contested surrogacy births*, 77 [ALR5th](#) 567 (2000).
- *Litigation of Surrogate Parenting Agreements*, 148 [Am. Jur. Trials](#) 471 (2017).
- 48 [COA 2d](#) 687 (2011). *Cause of Action for Determination of Status as Legal or Natural Parents of Children Borne by Surrogate or Gestational Carrier*
- 17A [Am. Jur.](#) 2d Contracts (2016). §287. *Contracts concerning familial relationships; gestational surrogacy*

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Louise Truax, [LexisNexis Practice Guide: Connecticut Family Law](#) (2019).
Chapter 11. Surrogacy and Gestational Agreements
- 2 Thomas A. Jacobs, [Children and the Law: Rights & Obligations](#), 2019 Ed.
Chapter 6. Domestic Relations
Section IV. Related Issues
§ 6:11 Parentage
- 1 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2018).
Chapter 2. Consent to adoption
- 3 Joan Heifetz Hollinger et al., [Adoption Law and Practice](#) (2016).
Chapter 14. Assisted reproductive technologies, collaborative reproduction and adoption
§ 14.20. Charts summarizing state statutes on ART
[1] Surrogacy and gestational carriers

- 2 Sandra Morgan Little, [Child Custody & Visitation Law & Practice](#) (2019).
 - Chapter 11A. Assisted reproductive technologies and collaborative reproduction
 - § 11A.06. Case law on ARTs
 - § 11A.08. Preparing collaborative reproduction agreements
 - [2] Requirement of medical screening
 - [3] Requirement of psychological evaluation
 - [4] Compensation
 - [5] Relinquishment of parental rights
 - [6] Personal protection of donor or carrier
 - [7] **Nature of parties' relationship**
 - [8] Summary of elements for gestational carrier agreements

- 6 Arnold H. Rutkin, [Family Law and Practice](#) (2019).
 - Chapter 63. Paternity Proceedings
 - § 63.09. Assisted conception
 - Chapter 64-A. Law of Alternative Reproductive Technologies
 - § 64A.02. Types of alternative reproductive technologies
 - [6] Surrogate parenting
 - § 64A.07 Legal issues involved in surrogate parenting.
 - [2] Parentage issues in surrogate parenting
 - [3] Fees for surrogacy
 - [4] Selecting the surrogate
 - § 64A.09 Uniform Parentage Act

- Ann M. Haralambie, [Handling Child Custody, Abuse and Adoption Cases](#) (3rd ed. 2009).
 - Chapter 9. Assisted conception and surrogacy
 - § 9.15. Surrogacy generally
 - § 9.16. – Gestational surrogacy
 - § 9.17. – Gratuitous surrogacy
 - § 9.18. – Surrogacy for a fee
 - § 9.19. Rights of surrogate
 - § 9.20. **Status of the surrogate's husband**
 - § 9.21. Enforceability and remedies

- 2 Nina M. Vitek, [Disputed Paternity Proceedings](#) (5th Ed. 2019.)
 - Chapter 17. Assisted reproduction: Constitutional and family law parameters
 - § 17.02. Assisted reproduction and collaborative reproduction
 - § 17.03. Directives and agreements
 - § 17.05. Checklists for counseling ART clients
 - § 17.06. Assisted reproduction case law
 - § 17.10. Gestational carriers and surrogates: Why the distinction is significant

Appendix 17B. State laws on assisted reproduction
§17B.01. State laws re: Surrogacy and gestational carriers

- 15 Joseph M. Perillo, [Corbin on Contracts](#), Rev. Ed. § 81.6 Surrogacy Contracts (1993).
- 1 Jeff Atkinson, [Modern Child Custody Practice](#), 2nd Ed. (2018).
Chapter 8. Surrogate parenting
- 1 Thomas R. Young, [Legal Rights of Children](#), 3d. (2019-2019).
Chapter 7. Inheritance laws and paternity rights of illegitimate children
§ 7:13. Establishing parentage through paternity actions
§ 7:14. -- Children of surrogate mothers and sperm donor fathers

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Leslie I. Jennings-Lax, *Surrogacy –The Law in Connecticut*, 79 Conn. B.J. 59 (2005)
- Courtney G. Joslin, *Nurturing Parenthood Through the UPA*, 127 Yale L.J. Forum 589 (2017).
- Douglas NeJaime, *The Nature of Parenthood*, 126 Yale L.J. 2260 (2017). Part II. B. In Vitro Fertilization, Egg Donation, and Gestational Surrogacy.
- Deborah S. Mazer, Born Breach: *The Challenge of Remedies in Surrogacy Contracts*, 28 Yale J.L. & Feminism 211 (2016).
- Jennifer L. Laporte, Note, *Connecticut’s Intent Test to Determine Parentage: Equality for Same-Sex Couples at Last*, 26 Quinnipiac Prob. L.J. 291 (2013).
- Christine A. Bjorkman, *Sitting in Limbo: The Absence of Connecticut Regulation of Surrogate Parenting Agreements and Its Effect on Parties to the Agreement*, 21 Quinnipiac Prob. L.J. 141 (2008)

Section 3: Wrongful Birth or Wrongful Life

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the torts of wrongful birth or wrongful life in Connecticut.

DEFINITION:

- “The terms ‘**wrongful birth**’ and ‘**wrongful life**’ are but shorthand phrases that describe the causes of action of parents and children when negligent medical treatment deprives parents of the option to terminate a pregnancy **to avoid the birth of a defective child.**” [Procanik by Procanik v. Cillo](#), 478 A2d 755, 760 (N.J. 1984).
- “‘**wrongful life**’ refers to a cause of action brought by or on behalf of a defective child who claims that but for the **defendant doctor’s negligent advice to or treatment of its** parents, the child would not have been born.” Ibid.

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2019) [Chapter 899](#) Evidence [§52-184c](#). Standard of care in negligence action against health care provider

FORMS:

- Frederic S. Ury and Neal L. Moskow, [Connecticut Torts: The Law and Practice](#) (2015).
 - § 9.06.1 Complaint-Wrongful Life/Wrongful Birth
- *Complaint, petition, or declaration – Birth of child after sterilization operation*, 19B [Am. Jur. Pleading & Practice Forms](#) §298 (2007).
- *Cause of action for wrongful birth or wrongful life*, 23 [COA2d](#) 55 (2003).
 - § 39. Sample complaint. Wrongful birth action

CASES:

- [Bujak v. State](#), Superior Court, Judicial District of Hartford, No. HDD CV 08-6003355-S (Oct. 24, 2014) (59 Conn. L. Rptr. 218). “While the question of whether parents may recover for emotional injury to themselves in wrongful birth cases has not been addressed by our higher courts, our Supreme Court has twice clearly rejected the opportunity in wrongful conception cases to **carve out an exception to the normal duty of a tortfeasor to assume liability for all the damages that he has proximately caused.**’ *Ochs v. Borrelli*, 187 Conn. 253, 258 (1982); *Burns v. Hanson*, 249 Conn. 809, 819 (1999). In *Ochs*, where a child was conceived after an unsuccessful sterilization procedure, the court held that the defendant

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

was liable for not only the expenses resulting from medical care to treat the child's orthopedic disability, but also for the costs of raising the child to majority. In *Burns*, a defendant physician who incorrectly advised a severely disabled mother that she was sterile and failed to diagnose her pregnancy was held liable for damages arising from the costs of raising the child who was born healthy.

"In light of this authority, the plaintiff specifically seeks non-economic damages, i.e. damages for pain and suffering as a result of having to raise a child with such severe disabilities which they assert are causally related to the defendants' negligence. Given our Supreme Court's clear direction to impose upon a defendant liability for all damages proximately caused by his negligence, this court cannot discern how emotional injuries as encompassed by a claim for non-economic damages should be excluded from a jury's consideration. Likewise and given the holdings in *Ochs* and *Burns*, other superior courts have also concluded that non-economic damages, including emotional pain and suffering, are appropriate claims for damages resulting from the negligence of a defendant in a wrongful birth case."

- [Vasquez v. Roy](#), 66 Conn. L. Rptr. 602 (2018), WL 625836. "This court **finds that Xavier's claim does not** sound in wrongful life because he is seeking to hold the defendants accountable for causing his physical injuries and deformities. Xavier does not allege any failure on the part of the defendants to predict or diagnose a disease or defect, and he does not allege that the injury suffered is **his birth or existence.**"
- [Rich v. Foye](#), 51 Conn. Sup. 11, 43, 976 A.2d 819 (Conn. Super. Ct. 2007). Damages for emotional distress in wrongful birth action. **Wrongful life claim. "Being born with a handicap instead of not being born is not a legally cognizable injury. Damages for living life with impairments are damages that cannot be calculated or, alternatively, are ones already recoverable under a wrongful birth action."**
- [Burns v. Hanson](#), 249 Conn. 809, 811, 734 A.2d 964 (1999). "The issues in this action for negligence and malpractice arise out of the birth of a healthy child to a severely disabled mother, who, in accordance with medical advice, **had decided not to have another child.**"
- [Martinez v. Hartford Hospital](#), 4 Conn. L. Rptr. 57, 60 (1991), WL 88085. "In the instant case, plaintiff has alleged sufficient facts to support a cause of action for medical malpractice. Further, damages arising from

defendant's negligence relating to the birth of the twins and the costs of raising them are properly pleaded and recoverable."

- [Ochs v. Borrelli](#), 187 Conn. 253, 258, 445 A.2d 883 (1982). "In our view, the better rule is to allow parents to recover for the expenses of rearing an unplanned child to majority when the child's birth results from negligent medical care."

WEST KEY NUMBERS:

ENCYCLOPEDIAS:

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- *Health #687 "Wrongful life" or birth of unhealthy child.*
- *Cause of action against physician for wrongful conception or wrongful pregnancy*, 3 [COA](#) 83 (1984).
- *Cause of action for wrongful birth or wrongful life*, 23 [COA2d](#) 55 (2003).
- Frederic S. Ury and Neal L. Moskow, [Connecticut Torts: The Law and Practice](#) (2015).
 - Chapter 9: Claims stemming from the conception and birth of a child: Wrongful pregnancy, birth, and life
 - § 9.04 Bringing a wrongful birth claim
- Michael S. Taylor and Daniel J. Krisch, [Encyclopedia of Connecticut Causes of Action](#) (2019).
 - 1W-4. Wrongful birth
 - 1W-6. Wrongful life
- 2 Nina M. Vitek, [Disputed Paternity Proceedings](#) (5th Ed. 2019.)
 - Chapter 29. Challenging the obligation to pay child-rearing costs
 - Liability of third parties affecting the support obligation
 - § 29.10. Negligence as basis for "wrongful conception" claim
 - § 29.11. Events which may create a 'wrongful conception' claim
 - § 29.12. Theory and validity of "wrongful conception" cause of action
 - § 29.13. Other theories of liability
 - § 29.14. Recoveries available
 - § 29.15. Rationales for the denial of child-rearing costs
 - § 29.16. Rationales for the recovery of child-rearing costs
 - § 29.17. Constitutional dimensions of the issue: privacy and procreational choice
 - § 29.18. Author's strategies

- 1 Thomas R. Young, [Legal Rights of Children](#), 3d. (2018-2019).
Chapter 9. Children and the law of torts
IV. Wrongful life and wrongful death

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Garrett M. Moore, *Life As An Injury: There Is A Debate Going On Over Whether Actions Known As 'Wrongful Conception' And 'Wrongful Life' Are Valid Causes Of Action*, 23 Connecticut Law Tribune no. 47, p. 15 (Nov. 24, 1997).
- Michael T. Murtaugh, *Wrongful Birth: The Courts' Dilemma in Determining a Remedy for a "Blessed Event,"* 27 Pace L. Rev. 241 (Winter, 2007).
- Christopher T. Hurley, Mark R. McKenna, *'Wrongful Birth' Plaintiffs Can Recover for Emotional Distress*, 101 Ill. B.J. 580 (Nov., 2013).
- Paul L. Barber, *Prenatal Diagnosis: An Ethical and a Regulatory Dilemma*, 13 Hous. J. Health L. & Policy 329 (Fall, 2013).
- Sofia Yakren, *"Wrongful Birth" Claims and the Paradox of Parenting a Child With a Disability*, 87 Fordham L. Rev. 583 (Nov., 2018).
- James A. Henderson, Jr., *Things of Which We Dare Not Speak: An Essay on Wrongful Life*, 86 Geo. Wash. L. Rev. 689 (May, 2018).

Section 4: Abortion Law

A Guide to Resources in the Law Library

SCOPE:

Bibliographic sources relating to abortion laws, including abortion clinics.

DEFINITIONS:

- **Medically Necessary or Therapeutic Abortions:** "abortions necessary to ameliorate a condition that is deleterious to a woman's physical and or psychological health." *Doe v. Maher*, 40 Conn. Supp. 394, 396 n.4, 515 A.2d 134 (1986).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2019) [Chapter 319y](#) Medical Assistance
§ [17b-259b](#). "Medically necessary" and "medical necessity" defined. Notice of denial of services. Regulations.
- Conn. Gen. Stat. (2019) [Chapter 368y](#) Abortion
§ [19a-600](#). Definitions
§ [19a-601](#). Information and counseling for minors required. Medical emergency exception.
§ [19a-602](#). Termination of pregnancy prior to viability. Abortion after viability prohibited; exception.
- Conn. Gen. Stat. (2019) [Chapter 802h](#). Protected Persons and Their Property
§ [45a-677](#)(e)(9). Powers and duties of plenary or limited guardian

REGULATIONS:

You can visit your local law library or browse the [Connecticut eRegulations System](#) on the Secretary of the State website to check if a regulation has been updated.

- Connecticut Agency Regulations. Department of Public Health.
§ [19-13-D49](#). Records.
§ [19-13-D52](#). Maintenance.
§ [19-13-D54](#). Abortions.
§ [19a-116-1](#). Abortion services in outpatient clinics
- Connecticut Agency Regulations. Department of Social Services.
§ [17b-262-348](#)(r)(3). Payment limitations (Family planning, abortion and hysterectomy).

FORMS:

- 3 [COA](#) 83 (1984). *Cause of Action Against Physician for Wrongful Conception or Wrongful Pregnancy*
- Abortion, [1 Am. Jur. Pleading & Practice Forms](#) (2003)
 - II. Blockade and harassment of abortion clinics
 - III. Parental consent to **minor's abortion**
 - IV. Medical malpractice involving abortion
 - V. Restrictions on abortion rights

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Clarke](#), 24 Conn. App. 541, 590 A.2d 468 (1991). ***Demonstration at an abortion clinic.***
- [Doe v. Maher](#), 40 Conn. Supp. 394, 450, 515 A.2d 134 (1986). **"The court declares that the regulation; 3 Manual, Department of Income Maintenance Medical Assistance Program, c. III, Policy 275; which provides for the funding of abortion under the medicaid program only when necessary to preserve the physical life of the woman or when pregnancy is the result of rape or incest, to be: (a) contrary to the statutory provisions of the medicaid program; General Statutes § 17-134a et seq.; and specifically § 17-134b of the General Statutes, and that therefore the commissioner of income maintenance exceeded his authority in adopting it; (b) in violation of the plaintiff class of poor women's and the plaintiff class of physicians' constitutional rights of due process under article first, § 10, of the constitution of the state of Connecticut; (c) in violation of the plaintiff class of poor women's constitutional right of equal protection under article first, §§ 1 and 20 (including the equal rights amendment, article five of the amendments), of the constitution of the state of Connecticut."**
- [Anselmo v. Anselmo](#), Superior Court of Connecticut, No. FA000181708 (Mar. 28, 2001) (2001 WL 358851). "In the recent case of ***Planned Parenthood of Southeastern Pennsylvania v. Casey***, 505 U.S. 833, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992), the court found that at all stages of a pregnancy, but in particular, after the point of viability is reached, the state has an interest in protecting the unborn infant. So much so that following viability, the state's interest overrides the long-established right of the **mother to terminate the pregnancy."**
- [Vasquez v. Roy](#), 66 Conn. L. Rptr. 602 (2018), WL 625836. **"This court finds that the physician-patient relationship between the defendants and Xaver, while in utero, was not extinguished because the medical judgment at issue related to a termination of the pregnancy. The defendants' professional relationship with Xavier gave rise to a duty to conform to professional standards with regard to the choice of an appropriate abortion technique."**
- Senator George Jepsen, State Capitol, [2001-015 Formal Opinion](#), Attorney General of Connecticut. "In response to your request, this is a formal opinion regarding whether **advanced practice registered nurses ('APRNs'), licensed nurse-midwives and physician assistants in Connecticut are authorized to dispense, prescribe and administer the drug mifepristone (brand name 'Mifeprex', also known as**

ATTORNEY GENERAL OPINIONS:

'RU-486') to women in licensed clinics for the purpose of terminating early pregnancies in a non-surgical manner."

- Joyce A. Thomas, Department of Social Services, [1998-022 Formal Opinion](#), Attorney General of Connecticut. "This is a formal opinion regarding whether abortion must be included in the coverage provided under the Husky Plan, Part B ("Husky B"), a program designed to ensure health care coverage to all children in Connecticut."
- Mary Fitzpatrick, *Medicaid and Abortion*, Connecticut General Assembly. Office of Legislative Research Report no. [2018-R-0260](#) (September 26, 2018).
- Nicole Dube, *Connecticut's Abortion Clinics*, Connecticut General Assembly. Office of Legislative Research Report no. [2018-R-0209](#) (August 28, 2018).
- OLR Staff, *Abortion Laws*, Connecticut General Assembly. Office of Legislative Research Report no. [2018-R-0181](#) (July 13, 2018).
- Janet Kaminski Leduc, *Abortion Coverage in Plans Offered on the Insurance Exchange*, Connecticut General Assembly. Office of Legislative Research Report no. [2014-R-0121](#) (April 14, 2014).
- Susan Price-Livingston, *Abortions for Minors: Other States' Parental Involvement Laws*, Connecticut General Assembly. Office of Legislative Research Report no. [2003-R-0050](#) (February 3, 2003).
- P.A. 90-113, An Act Concerning the Repeal of Certain Statutes.
Repealed: Conn. Gen. Stat. (1999) §§53-29 to 53-31b

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

ENCYCLOPEDIAS:

- Deborah F. Buckman, *Validity, construction, and application of state statutes limiting or conditioning receipt of government funds by abortion providers*, 26 [ALR7th](#) Art. 9 (2017).
- 1 [Am. Jur.](#) 2d *Abortion and Birth Control* (2016).
- 1 [C.J.S.](#) *Abortion and Birth Control* (2005).
- 1 Mark I. Soler and Michael J. Dale, [Representing the Child Client](#) (2019).
Chapter 3. The legal status of minors
3.02 Rights restricted based on age
[c] Medical care

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 2 Thomas A. Jacobs, [Children and the Law: Rights & Obligations](#), 2019 Ed.
Chapter 10. Health Care.
Sec. II. C. Medical care and treatment;
Reproductive rights
§ 10:17 Abortion

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Erika Hanson, Lighting The Way Towards Liberty: The Right to Abortion After Obergefell and Whole Woman's Health, 45 Hastings Const. L.Q. 93 (Fall, 2017).
- Cary Franklin, *The New Class Blindness*, 128 Yale L.J. 2 (2018).
- Noya Rimalt, When Rights Don't Talk: Abortion Law and the Politics of Compromise, 28 Yale J.L. & Feminism (2017).
- Stephen G. Gilles, Restoring Casey's Undue-Burden Standard After Whole Women's Health v. Hellerstedt, 35 Quinnipiac L. Rev. 701 (2017).
- Maya Manian, *The Consequences of Abortion Restrictions for Women's Healthcare*, 71 Wash. & Lee L. Rev. 1317 (Spring, 2014).
- Bebe J. Anderson, *Litigating Abortion Access Cases in the Post-Windsor World*, 29 Colum. J. Gender & L. 143 (2015).
- Linda Greenhouse and Reva B. Siegel, *The Difference a Whole Woman Makes: Protection for the Abortion Right After Whole Woman's Health*, 126 Yale L.J. Forum 149 (2016).
- Chelsea M. Donaldson, *Constitutional Law/reproductive Justice-Breaking the Trap: How Whole Woman's Health Protects Abortion Access, and the Substantive Due Process Clause's Rebuke of Anti-Abortion Regulations*, 40 W. New Eng. L. Rev. 257 (2018).