

NY BROAD-BASED FERTILITY FRAUD LEGISLATION

[S07588](#) / [A00718-B](#)

*Justice for Victims of Fertility Fraud &
Protection of Future Donor-Conceived People*



It's estimated that 1 in 27 people in the U.S. are conceived through assisted reproduction techniques. This includes Assisted Reproductive Technology (ART) where eggs and embryos are handled and the use of sperm donors. (Note: there are data reporting requirements for ART, but no data are required to be collected regarding births from the use of sperm donors so this is an estimate). Many discover they are conceived through assisted reproductive techniques later in life through an over-the-counter DNA test. From 2003-2019, there were 4.1 million births in New York state. This means there are more than 150,000 children in New York under age 18 who may have been exposed to incorrect medical history and late discovery identity trauma through fraud by the physician, clinic, or donor.

There are minimal regulations governing assisted reproductive technologies and fraud can and does occur at many points in the process. In New York, there are no consequences or an easy path for recourse when a doctor, donor, or clinic misrepresents information about the donor or when sperm, eggs, or embryos are used without the express consent of the patient or donor, including the use of the doctor's own specimen without consent. There are seven known doctors in New York alone who have used their own sperm without their patient's permission, not to mention countless other cases of donor and medical fertility fraud. Not one doctor has been reprimanded for this practice. Many who experience fertility fraud have difficulties coming forward due to the impacts on them and their families, so it is difficult to know how many already know of their fraud. Check out www.DonorDeceived.org.

Proposed NY Broad-Based Fertility Fraud Legislation addresses the following in assisted reproductive:

- Makes it an aggravated assault in the fourth degree for a health care provider to use their own specimen or use sperm, eggs, or embryos the health care provider should've known the patient did not consent to.
- Provides a private cause of action for fertility fraud for the patient, spouse, or offspring within three years of discovery against:
 - A health care provider who uses their own specimen or sperm, eggs, or embryos not expressly consented to by the patient; and
 - A donor, health care provider, or clinic/bank that provides misleading information about the donor's identity; uses sperm, eggs, or embryos not expressly consented to by the patient; violates agreements between the donor and clinic/bank/healthcare provider; or violates NY regulations on Tissue Banks (52.8).
- Provides a private cause of action for fertility fraud for a donor against a health care provider who should have reasonably known the donor did not consent to the use of their specimen or the specimen was used in a manner other than agreed or that violates NY regulations on Tissue Banks (52.8).
- Makes it professional misconduct when doctor is convicted of aggravated sexual assault in the fourth degree.

Fertility Fraud Legislation

