

## WA BROAD-BASED FERTILITY FRAUD LEGISLATION

[SB 5348 / HB 1848](#)

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



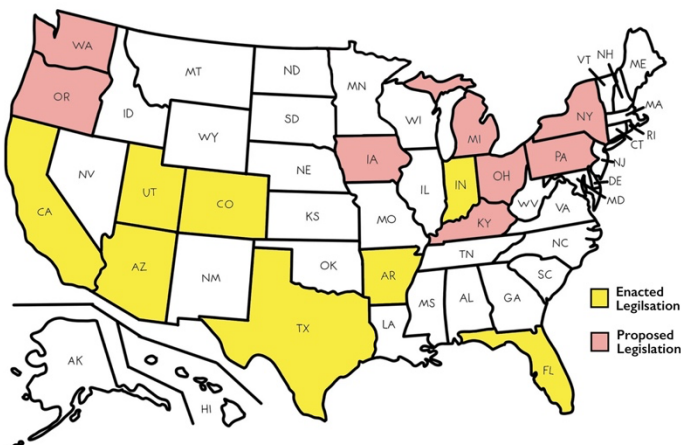
It's estimated that 1 in 27 people in the U.S. are conceived through assisted reproduction techniques. This includes Assisted Reproductive Technology (ART) where eggs and embryos are handled and the use of sperm donors. (Note: there are data reporting requirements for ART, but no data are required to 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 almost 1.5 million births in Washington. This means there almost 55,000 children in Washington 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 Washington, 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 many victims who are the product of fertility fraud living in Washington including many who are the offspring of doctors who used their own sperm with their patients' permission. 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](http://www.DonorDeceived.org).

**The proposed legislation in the Senate (SB 5348) includes the civile cause of action and doctor loss of license provision while the legislation in the House (HB 1848) includes the two new crimes:**

- Makes it an assault in the third degree when person implants his or her own reproductive material without written patient consent.
- Creates a Class C felony of false representation in assisted reproduction when:
  - Someone knowingly provides false information about the reproductive material being used or identifying, medical, educational, or background information about a donor.
  - A health care provider knowingly uses human reproductive material other than what the patient consented to in writing.
  - A health care facility that provides human reproductive material other than that agree to in writing, disregard any agreements or consent related an assisted reproduction procedure with a donor, or fails to make a good faith effort to provide donor information requested by a donor conceived person.
- Provides a private cause of action for false representation in assisted reproduction for the patient, spouse, offspring, or donor.
- States it is unprofessional misconduct for a health care professional to conduct any false representation in assisted reproduction or uses his or her own reproductive material without patient consent.

### Fertility Fraud Legislation



### Widespread Support of SB 5348 & HB 1848

- National Association of Adoptees & Parents (NAAP)
- Planned Parenthood
- US Donor Conceived Council
- WA Medical Commission