Modernizing Third-Party Reproduction Policy for Diverse Family Building

Nicolas Johnson, MD • Reproductive Endocrinology & Infertility Fellow, University of Cincinnati

THE POLICY PROBLEM

Assisted reproduction can separate genetic, gestational, and intended parenthood. Yet state laws do not consistently translate documented reproductive intent into secure legal parentage at birth. Some statutes explicitly recognize intended parents; others rely on marital assumptions, genetic relationships, or more complex court procedures. The result is unequal statutory clarity for families using donor gametes or gestational carriers—particularly unmarried, LGBTQ+, and non-genetic intended parents. [1–5]

WHAT A FIVE-STATE STATUTORY COMPARISON REVEALS

Ohio	Artificial-insemination provisions expressly address a consenting husband and use sex-specific definitions; they do not provide an equally broad ART-specific intent rule. [2]
Connecticut	Consent with intent to parent is an express basis for parentage; prebirth orders and qualifying surrogacy pathways support recognition at birth. [3]
Illinois	Consent-based parentage and a gestational-surrogacy framework combine recognition with independent counsel and other safeguards. [4]
Louisiana	Its gestational-carrier framework conditions the statutory route on specified marriage and genetic-relatedness criteria. [5]
Virginia	Recognizes multiple surrogacy pathways, but court-approved arrangements involve additional procedural requirements. [6]

WHY THIS MATTERS

The central inequity is not merely gendered vocabulary; it is whether legal recognition depends on who a family is, rather than on informed consent and intended parenthood. Unclear or burdensome pathways may require additional legal work, cost, or delay. This review identifies potential structural burdens; it does not measure their frequency or establish that unaddressed families lack all other legal remedies.

THREE LEGISLATIVE PRIORITIES

1. Establish inclusive parentage rules. Recognize documented consent and intent to parent regardless of sex or marital status; expressly clarify donor non-parentage.

2. Secure recognition at birth. Permit accessible prebirth determinations effective at birth and alternative evidence of consent when appropriate; align vital-record procedures.

3. Protect every participant. Preserve independent counsel, informed consent, gestational-carrier autonomy, and child-centered safeguards without unrelated marital or genetic eligibility barriers.

CALL TO ACTION

State legislators should audit operative ART and surrogacy provisions—not just terminology—and adopt clear, inclusive, intent-based pathways to legal parentage while retaining meaningful protections for carriers, donors, and children.

SELECTED AUTHORITIES [1] Uniform Parentage Act (2017). [2] Ohio Rev. Code §§ 3111.88–.96. [3] Conn. Gen. Stat. §§ 46b-511–12, 46b-517, 46b-529. [4] 750 ILCS 46/703; 750 ILCS 47. [5] La. R.S. 9:2718, 2720. [6] Va. Code §§ 20-158–160.

Scope: Descriptive comparison of selected statutory pathways, not a comprehensive assessment of all state family-law remedies or legal advice.