

Child support claims against sperm donors?

Can a sperm donor be forced to pay child support?

In a story that made national news, the state of Kansas is seeking to have a sperm donor declared to be the father of a child and to be made financially responsible for the



Dorothy, were not in Kansas in more...

child. The donation had been made to a lesbian couple's request on Craigslist for sperm. Crucially, the man donated a container of sperm directly to the women rather than through a doctor or clinic. Although both the couple and the man signed an agreement stating that the man would not be liable for child support, this is exactly what the state now seeks. The problem is that Kansas state law states that "the donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the birth father of a child thereby conceived," but in this case, the donation was not made via a physician.

However, the State's argument appears to ignore an earlier Kansas case which determined that a sperm donor's delivery of sperm directly to an unmarried mother, rather than to a physician, did not give the donor any parental rights absent a written agreement to the contrary. In that case, the positions were reversed: the donor was actually seeking to be declared to *have* parental rights. However, theoretically, the outcome should be the same in the current case, where there is also no agreement stating that the donor would have parental rights.

Could this happen in Minnesota?

While the publicity around the Kansas case could have the effect of making sperm donors fewer and farther between, this shouldn't necessarily be the case's impact. First, it's important to recognize that no court has actually decided that the Kansas donor is liable for child support. The case is at a preliminary stage, and the man is seeking to have the claim dismissed. In that sense, nothing has actually "happened" yet.

Despite this, it's true that Minnesota law has a similar provision to the law in Kansas that is at issue here. Minnesota law states that "The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the biological father of a child thereby conceived." Similar laws exist in many other states, including California and Colorado. While the Kansas case may be dismissed, it's worth noting that the donor will still have had publicity and legal fees to deal with.

The obvious solution to such problems is to always have donations done through a licensed physician, though this may be expensive. Another potential solution is to have the donor bring a voluntary [termination of parental rights](#) proceeding after the child's birth. However, because this area of law is so new, it's unclear whether this would bring the desired result, and it may, like the option above, be expensive. For now, it may be best to watch and see the outcome of the Kansas case; because the Kansas and Minnesota laws are so similar, the outcome there would predict (though obviously not guarantee) a similar outcome in any future Minnesota cases with the same issue.

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While I appreciate all of our readers (I really do!) a few things to know before you send me an email with a "quick legal question" I'm a Minnesota only lawyer. I can't give any advice about the laws in any other state except Minnesota. Also, while I am a believer that while clients need to know as much information as they can (that's why I do these blogs) I can't give advice to you via email and unless we sign a retainer agreement and pay the retainer as our malpractice carrier is very particular about giving out advice over email.