**South Carolina General Assembly**

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**S. 431**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hutto

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Currently residing in the Senate Committee on **Judiciary**

Summary: Donor Statute

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/6/2025 Senate Introduced and read first time ([Senate Journal‑page 4](h:\sj\20250306.docx))

3/6/2025 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 4](h:\sj\20250306.docx))

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**VERSIONS OF THIS BILL**

[03/06/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/431_20250306.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63‑3‑530, RELATING TO JURISDICTION IN DOMESTIC MATTERS, SO AS TO PROVIDE THAT THE FAMILY COURT HAS EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ACTIONS FOR ASSISTED REPRODUCTION PARENTAL RIGHTS; BY AMENDING SECTION 63‑17‑10, RELATING TO DEFINITIONS, SO AS TO UPDATE DEFINITIONS TO INCLUDE PARENTAGE RELATED TO ASSISTED REPRODUCTION; BY AMENDING SECTION 63‑17‑20, RELATING TO JURISDICTION, SO AS TO PROVIDE CONFORMING LANGUAGE; AND BY AMENDING SECTION 63‑17‑40, RELATING TO SETTLEMENT AND VOLUNTARY AGREEMENTS, SO AS TO PROVIDE CONFORMING LANGUAGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑3‑530(A)(5) of the S.C. Code is amended to read:

(5) (Reserved)to hear and determine actions for the establishment of parental rights, whether such action is in connection with an adoption or apart therefrom, including determinations of parental rights in connection with assisted reproduction;

SECTION 2. Section 63‑17‑10 of the S.C. Code is amended to read:

Section 63‑17‑10. (A) The purpose of this article is to establish a procedure to aid in the determination of the paternity of an individual.

(B) As used in this article:

(1) “Assisted reproduction” means conception by any means other than sexual intercourse pursuant to a written assisted reproduction agreement consent form.

(B)(2) As used in this article, “child” “Child” includes, but is not limited to, a person under the age of eighteen years.

(3) “Donor” means an individual who donates their sperm or ova, for the purpose of assisting an intended parent, who is not their spouse, in conceiving a child through the use of assisted reproduction. Said donation of genetic material must have been provided to a licensed physician or a licensed sperm or ova bank.

(4) “Intended parent” means an individual who manifests the written intent to be legally bound as the parent through assisted reproduction.

(C) An action to establish the paternity of an individual may be brought by:

(1) a child;

(2) the natural mother of a child;

(3) any person in whose care a child has been placed;

(4) an authorized agency, including, but not limited to, the Department of Social Services, pursuant to the provisions of Chapter 5 of Title 43, and any other person or agency pursuant to the provisions of Sections 63‑3‑550 and 63‑17‑340; or

(5) a person who claims to be the father of a child.

(D) If an action is brought under this article prior to the birth of a child, all proceedings must be stayed until after the birth of the child except the service of a summons and the taking of depositions or other discovery procedures.

(D) An action under this article may be brought and an order may be entered before the birth, provided the enforcement of that order shall be stayed until the birth.

(E) Whenever an action threatens to make a child illegitimate, the presumed legal father and the putative natural father must be made parties respondents to the action. A child under the age of eighteen years must be represented by a guardian ad litem appointed by the court. Neither the mother nor the presumed or putative father of the child may represent him as guardian ad litem.

SECTION 3. Section 63‑17‑20 of the S.C. Code is amended to read:

Section 63‑17‑20. (A) Any person who has sexual intercourse in this State or causes conception through the use of assisted reproduction with the intent to become a legal parent in this State or who enters into a written assisted reproduction agreement in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this article with respect to a child who may have been conceived by that act of intercourse or assisted reproduction. In addition to any other method provided by law, personal jurisdiction may be acquired by service of process outside this State in the manner authorized by the provisions of Section 36‑2‑806.

(B) Unless the court orders otherwise, the custody of an illegitimate child is solely in the natural mother unless the mother has relinquished her rights to the child. If paternity has been acknowledged or adjudicated, the father may petition the court for rights of visitation or custody in a proceeding before the court apart from an action to establish paternity.

(C) All actions commenced under this article must be dealt with as separate proceedings before the court without a jury. The general public is to be excluded from these proceedings and only those persons whom the judge finds to have a direct interest in the proceeding or in assisting the court in its work are to be permitted to attend.

(D) Any proceeding commenced under this article is a civil action. The natural mother of the child and the alleged father are competent to testify and may be compelled by the court to appear and give testimony.

(E) For actions involving an assisted reproduction agreement, the courts of this State shall have jurisdiction over a proceeding to determine parentage if:

(1) one or more of the parties to the assisted reproduction agreement resides in this State or resided in this State at the time the assisted reproduction agreement was executed;

(2) the medical procedures leading to a conception were carried out in this State; or

(3) the child is born in this State.

SECTION 4. Section 63‑17‑40 of the S.C. Code is amended to read:

Section 63‑17‑40. (A) The court must encourage settlements and voluntary agreements and must examine and approve them whenever they are warranted. Upon a finding of fairness the court shall approve, without a hearing, settlements and voluntary agreements which are reduced to writing, signed by the parties, and properly verified. The agreement must be accompanied by financial declarations and affidavits from the custodial and noncustodial parents stating that they have read, or have had read to them, and understand the agreement and that they have voluntarily executed the agreement or consent order. The parties may submit themselves to the jurisdiction of the court by a settlement or voluntary agreement which must be filed with the summons and complaint. A defendant's affidavit must state that the defendant is capable of fulfilling any financial requirements of the agreement or consent order applicable to the defendant. Upon the court's approval, the settlement or voluntary agreement becomes an order of the court.

(B) In actions commenced by the Department of Social Services or any other authorized agency, an employee of the department or the agency who is familiar with the action may make, on behalf of the custodial parent, the required affidavit accompanying a settlement, voluntary agreement, or consent order. In cases where the child is the recipient of public assistance, the affidavit must state that the employee has reviewed the case and that the child involved is receiving public assistance due in part to inadequate support from the noncustodial parent.

(C) The donor of sperm or ova provided to a licensed physician or to a licensed sperm or ova bank for use in assisted reproduction by an intended parent other than the donor’s spouse is treated in law as if the donor was not the natural parent, unless otherwise agreed to in writing and signed by the sperm or ova provider and the intended parent prior to the conception.

(D) An intended parent who conceives through assisted reproduction shall be treated in law as the legal and natural parent, even if donated sperm or ova is used for conception. If married, the intended parent’s spouse shall be treated in law as the legal and natural parent if both spouses consented in writing to the conception through assisted reproduction.

SECTION 5. This act takes effect upon approval by the Governor.

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