

# Embryo Adoption

This Act defines embryos and establishes criteria for legal custodianship of embryos.

Submitted as:

Georgia

[HB 388 \(As Passed House and Senate\)](#)

Status: Enacted into law in 2009.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be known and may be cited as the “Option of  
2 Adoption Act.”

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4           Section 2. [*Definitions.*] As used in this Act, the term:

5           (1) “Embryo” or “human embryo” means an individual fertilized ovum of the human  
6 species from the single-cell stage to eight-week development.

7           (2) “Embryo relinquishment” or “legal transfer of rights to an embryo” means the  
8 relinquishment of rights and responsibilities by the person or persons who hold the legal rights  
9 and responsibilities for an embryo and the acceptance of such rights and responsibilities by a  
10 recipient intended parent.

11           (3) “Embryo transfer” means the medical procedure of physically placing an embryo into  
12 the uterus of a female.

13           (4) “Legal embryo custodian” means the person or persons who hold the legal rights and  
14 responsibilities for a human embryo and who relinquishes said embryo to another person or  
15 persons.

16           (5) “Recipient intended parent” means a person or persons who receive a relinquished  
17 embryo and who accepts full legal rights and responsibilities for such embryo and any child that  
18 may be born as a result of embryo transfer.

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20           Section 3. [*Relinquishing Rights and Responsibilities for Embryos.*]

21           (a) A legal embryo custodian may relinquish all rights and responsibilities for an embryo  
22 to a recipient intended parent prior to embryo transfer. A written contract shall be entered into  
23 between each legal embryo custodian and each recipient intended parent prior to embryo transfer  
24 for the legal transfer of rights to an embryo and to any child that may result from the embryo  
25 transfer. The contract shall be signed by each legal embryo custodian for such embryo and by  
26 each recipient intended parent in the presence of a notary public and a witness. Initials or other  
27 designations may be used if the parties desire anonymity. The contract may include a written  
28 waiver by the legal embryo custodian of notice and service in any legal adoption or other  
29 parentage proceeding which may follow.

30           (b) If the embryo was created using donor gametes, the sperm or oocyte donors who  
31 irrevocably relinquished their rights in connection with in vitro fertilization shall not be entitled  
32 to any notice of the embryo relinquishment, nor shall their consent to the embryo relinquishment  
33 be required.

34           (c) Upon embryo relinquishment by each legal embryo custodian pursuant to subsection  
35 (a) of this section, the legal transfer of rights to an embryo shall be considered complete, and the

36 embryo transfer shall be authorized.

37 (d) A child born to a recipient intended parent as the result of embryo relinquishment  
38 pursuant to subsection (a) of this section shall be presumed to be the legal child of the recipient  
39 intended parent; provided that each legal embryo custodian and each recipient intended parent  
40 has entered into a written contract.

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42 Section 4. [*Petitioning for an Expedited Order of Adoption or Parentage.*]

43 (a) Prior to the birth of a child or following the birth of a child, a recipient intended  
44 parent may petition the [superior court] for an expedited order of adoption or parentage. In such  
45 cases, the written contract between each legal embryo custodian and each recipient intended  
46 parent shall be acceptable in lieu of a surrender of rights.

47 (b) All petitions under this Act shall be filed in the [county] in which any petitioner or  
48 any respondent resides.

49 (c) The court shall give effect to any written waiver of notice and service in the legal  
50 proceeding for adoption or parentage.

51 (d) In the interest of justice, to promote the stability of embryo transfers, and to promote  
52 the interests of children who may be born following such embryo transfers, the court in its  
53 discretion may waive such technical requirements as the court deems just and proper.

54 (e) Upon a filing of a petition for adoption or parentage and the court finding that such  
55 petition meets the criteria required by this Act, an expedited order of adoption or parentage shall  
56 be issued and shall be a final order. Such order shall terminate any future parental rights and  
57 responsibilities of any past or present legal embryo custodian or gamete donor in a child which  
58 results from the embryo transfer and shall vest such rights and responsibilities in the recipient  
59 intended parent.

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61 Section 5. [*Severability.*] [Insert severability clause.]

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63 Section 6. [*Repealer.*] [Insert repealer clause.]

64

65 Section 7. [*Effective Date.*] [Insert effective date.]