

REFERENCE TITLE: **dissolution; human embryos; disposition**

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

## **SB 1393**

Introduced by  
Senators Barto: Allen S, Borrelli, Burges, Farnsworth D, Gray, Griffin,  
Kavanagh, Kerr, Petersen, Yee

**AN ACT**

**AMENDING TITLE 25, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 25-318.03; RELATING TO DISSOLUTION OF MARRIAGE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 25, chapter 3, article 2, Arizona Revised  
3 Statutes, is amended by adding section 25-318.03, to read:

4 25-318.03. Human embryos; disposition; responsibility for  
5 resulting child; definitions

6 A. IF AN ACTION DESCRIBED IN SECTION 25-318, SUBSECTION A INVOLVES  
7 THE DISPOSITION OF IN VITRO HUMAN EMBRYOS, THE COURT SHALL:

8 1. AWARD THE IN VITRO HUMAN EMBRYOS TO THE SPOUSE WHO INTENDS TO  
9 ALLOW THE IN VITRO HUMAN EMBRYOS TO DEVELOP TO BIRTH.

10 2. IF BOTH SPOUSES INTEND TO ALLOW THE IN VITRO HUMAN EMBRYOS TO  
11 DEVELOP TO BIRTH AND BOTH SPOUSES PROVIDED THEIR GAMETES FOR THE IN VITRO  
12 HUMAN EMBRYOS, RESOLVE ANY DISPUTE ON DISPOSITION OF THE IN VITRO HUMAN  
13 EMBRYOS IN A MANNER THAT PROVIDES THE BEST CHANCE FOR THE IN VITRO HUMAN  
14 EMBRYOS TO DEVELOP TO BIRTH.

15 3. IF BOTH SPOUSES INTEND TO ALLOW THE IN VITRO HUMAN EMBRYOS TO  
16 DEVELOP TO BIRTH BUT ONLY ONE SPOUSE PROVIDED GAMETES FOR THE IN VITRO  
17 HUMAN EMBRYOS, AWARD THE IN VITRO HUMAN EMBRYOS TO THE SPOUSE THAT  
18 PROVIDED GAMETES FOR THE IN VITRO HUMAN EMBRYOS.

19 B. IF AN AGREEMENT BETWEEN THE SPOUSES CONCERNING THE DISPOSITION  
20 OF THE IN VITRO HUMAN EMBRYOS IS BROUGHT BEFORE THE COURT IN AN ACTION  
21 DESCRIBED IN SECTION 25-318, SUBSECTION A, THE COURT SHALL AWARD THE IN  
22 VITRO HUMAN EMBRYOS AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

23 C. THE SPOUSE THAT IS NOT AWARDED THE IN VITRO HUMAN EMBRYOS HAS NO  
24 PARENTAL RESPONSIBILITIES AND NO RIGHT, OBLIGATION OR INTEREST WITH  
25 RESPECT TO ANY CHILD RESULTING FROM THE DISPUTED IN VITRO HUMAN EMBRYOS,  
26 UNLESS THE SPOUSE PROVIDED GAMETES FOR THE IN VITRO HUMAN EMBRYOS AND  
27 CONSENTS IN WRITING TO BE A PARENT TO ANY RESULTING CHILD AS PART OF THE  
28 PROCEEDINGS CONCERNING THE DISPOSITION OF THE IN VITRO HUMAN EMBRYOS.

29 D. IF THE SPOUSE WHO IS NOT AWARDED THE IN VITRO HUMAN EMBRYOS DOES  
30 NOT CONSENT TO BEING A PARENT AS PROVIDED IN SUBSECTION C OF THIS SECTION,  
31 ANY RESULTING CHILD FROM THE DISPUTED IN VITRO HUMAN EMBRYOS IS NOT A  
32 CHILD OF THE SPOUSE AND HAS NO RIGHT, OBLIGATION OR INTEREST WITH RESPECT  
33 TO THE SPOUSE.

34 E. A SPOUSE WHO PROVIDED GAMETES FOR THE IN VITRO HUMAN EMBRYOS AND  
35 WHO DOES NOT CONSENT TO BEING A PARENT AS PROVIDED IN SUBSECTION C OF THIS  
36 SECTION SHALL PROVIDE THE HEALTH FACILITY THAT HAS THE IN VITRO HUMAN  
37 EMBRYOS WITH DETAILED WRITTEN NONIDENTIFYING INFORMATION THAT INCLUDES THE  
38 SPOUSE'S HEALTH AND GENETIC HISTORY AND THE HEALTH AND GENETIC HISTORY  
39 INFORMATION OF THE SPOUSE'S FAMILY IN A DOCUMENT THAT IS SEPARATE FROM ANY  
40 DOCUMENT CONTAINING IDENTIFYING INFORMATION.

41 F. RECORDS CONTAINING THE INFORMATION PRESCRIBED IN SUBSECTION E OF  
42 THIS SECTION:

43 1. SHALL BE RETAINED BY THE HEALTH FACILITY FOR NINETY-NINE YEARS.  
44 IF THE HEALTH FACILITY CEASES ITS OPERATIONS, THE HEALTH FACILITY SHALL  
45 TRANSFER THESE RECORDS TO EITHER OF THE FOLLOWING:

- 1 (a) THE DEPARTMENT OF ECONOMIC SECURITY.  
2 (b) TO ANOTHER HEALTH FACILITY IN THIS STATE IF THE HEALTH FACILITY  
3 TRANSFERRING THE RECORDS GIVES NOTICE OF THE TRANSFER TO THE DEPARTMENT OF  
4 ECONOMIC SECURITY.
- 5 2. MAY BE SUPPLEMENTED WITH INFORMATION SUPPLIED BY ANY FAMILY  
6 MEMBER OF THE SPOUSE THAT PROVIDED THE INFORMATION PRESCRIBED IN  
7 SUBSECTION E OF THIS SECTION. THE DEPARTMENT OF ECONOMIC SECURITY OR THE  
8 HEALTH FACILITY SHALL FILE THIS SUPPLEMENTAL INFORMATION WITH ALL OTHER  
9 INFORMATION CONCERNING THE DISPUTED IN VITRO HUMAN EMBRYOS.
- 10 3. SHALL BE MADE AVAILABLE ON REQUEST DURING THE NINETY-NINE-YEAR  
11 PERIOD TOGETHER WITH ANY SUPPLEMENTAL INFORMATION TO THE FOLLOWING PERSONS  
12 ONLY:
- 13 (a) THE LEGAL PARENTS OF ANY CHILD RESULTING FROM THE DISPUTED IN  
14 VITRO HUMAN EMBRYOS OR, IF THE LEGAL PARENTS HAVE DIED, THE CHILD'S  
15 GUARDIAN.
- 16 (b) ANY CHILD RESULTING FROM THE DISPUTED IN VITRO HUMAN EMBRYOS  
17 WHO IS EIGHTEEN OR MORE YEARS OF AGE.
- 18 (c) IF A RESULTING CHILD FROM THE DISPUTED IN VITRO HUMAN EMBRYOS  
19 HAS DIED, THE RESULTING CHILD'S SPOUSE IF THE SPOUSE IS THE LEGAL PARENT  
20 OR GUARDIAN OF THE RESULTING CHILD'S PROGENY.
- 21 (d) IF A RESULTING CHILD FROM THE DISPUTED IN VITRO HUMAN EMBRYOS  
22 HAS DIED, ANY OF THE RESULTING CHILD'S PROGENY WHO IS EIGHTEEN OR MORE  
23 YEARS OF AGE.
- 24 (e) THE SPOUSE THAT PROVIDED INFORMATION PURSUANT TO SUBSECTION E  
25 OF THIS SECTION OR OTHER BIOLOGICAL CHILDREN OF THAT SPOUSE.
- 26 G. THE PERSON WHO REQUESTS THE INFORMATION SHALL PAY THE ACTUAL AND  
27 REASONABLE COST OF PROVIDING INFORMATION PURSUANT TO SUBSECTION F OF THIS  
28 SECTION.
- 29 H. FOR THE PURPOSES OF THIS SECTION:
- 30 1. "GAMETE" MEANS A SPERM OR OVUM.  
31 2. "HEALTH FACILITY" MEANS A FACILITY THAT ACCEPTS OR COLLECTS  
32 HUMAN GAMETES FOR ANY PURPOSE RELATED TO THE TREATMENT OF HUMAN  
33 INFERTILITY.
- 34 3. "HUMAN EMBRYO" HAS THE SAME MEANING PRESCRIBED IN SECTION  
35 36-2311.  
36 4. "IN VITRO" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2311.