Blood Does Not Necessarily Make a Family (or Any Fraction Thereof): Intestate Succession, Half-Blood Siblings, and Assisted Reproductive Technology

ABSTRACT

Using the laws of intestate succession as a springboard, this article explores how children born via donor insemination view their "donor siblings," that is, people who share donor gametes but were born into and raised within different households. This article further proposes a flexible, functional treatment of donor siblinghood within the laws of intestate succession to keep pace with these evolving family structures.

INTRODUCTION

As a twelve-year old, Spencer was asked to depict his genealogy for a school project. The top of Spencer's poster had the familiar branch shape seen in many family trees. However, the bottom of Spencer's tree had one very large branch—his mother, Margo, and "X," Spencer's sperm donor. Beneath this large branch, Spencer drew seventeen separate twigs—each representing one of the sperm donor's offspring. Spencer listed himself as child number seventeen, although Spencer also noted, "we don't know how many there'll be eventually."[1]

It is becoming easier for people connected by donor gametes to find each other. The Donor Sibling Registry—an online registry that facilitates "mutual consent contact between people born from anonymous sperm or egg donation"—contains over 73,000 members.[2] The availability of direct-to-consumer DNA testing has also made it easier for people who share a common sperm donor to connect.[3] Drawing parallels to the adoption context, some scholars have suggested that "openness should mean not just telling a child that she is donor-conceived" but also "providing information about half-siblings and the opportunity to connect."[4] People connected by donor gametes now share play dates, birthday parties, and vacations.[5] Such people

are often referred to as "donor siblings"—people who share donor gametes but were born into and raised within different households.

When donor-conceived offspring connect, on average they communicate with their donor siblings over 28 times per year on internet groups; send approximately 15 individual emails and 10 group emails per year; and talk on the phone over 16 times per year.[6] One child conceived through sperm donation in a lesbian-headed household described knowing her donor siblings since she was three years old: "when we first met them, some of them kind of looked like us. It just grew on [my brothers and me] that they were our half-siblings."[7] And as reflected in Spencer's genealogy project depicting a branch with seventeen twigs—*when donor siblings do meet, 42% of these offspring view donor siblings as a part of their nuclear family*.[8]

When Americans turn to sperm banks, the same sperm sample that they purchased will often have already been divided into other vials.[9] When a person purchases a vial of sperm, they are given a unique number assigned by that sperm bank.[10] This identifier can be used to connect with others who have made similar purchases.[11] Some children sharing a sperm donor will form meaningful bonds. Yet some donors have produced at least 175 children.[12] Other so-called "donor siblings" will never come to know each other.

Donor sibling networks are unique in that they are "created by choice and yet build on connections that are purely genetic in their origin."[13] Using the laws of intestate succession as a springboard, this article explores how children born via donor insemination view their "donor siblings." This article considers sperm donation and not surrogacy, as these matters are often dealt with differently under the law.[14]

In Part I, this article explores donor-conceived offspring in single-mom households, lesbian-parent households, and heterosexual-parent households. Part II explores the existing

sociological literature regarding donor-conceived offspring and donor siblings in these three household types. Part III outlines the evolution of non-spousal sperm donors having (non)parentage and (non)inheritance rights under model law, namely the Uniform Parentage Act and the Uniform Probate Code. Part IV pivots to the history of the half-blood distinction in intestacy law. Part V includes a fifty-state survey on approaches to half-bloods under both case law and statutory law. Keeping in mind the sociological literature surveyed in Part II, Part VI offers a proposed statutory solution regarding the inheritance rights of donor siblings. This article proposes a flexible, functional treatment of donor siblinghood within the laws of intestate succession to keep pace with these evolving family structures. Part VII briefly concludes.

I. DONOR-CONCEIVED OFFSPRING IN SINGLE-MOM HOUSEHOLDS, LESBIAN-PARENT HOUSEHOLDS, AND HETEROSEXUAL-PARENT HOUSEHOLDS

When looking at the scope of this research project, one might rightfully question what could come at such a narrow intersection. It is rare for collaterals such as siblings to inherit; in most states, this fact pattern only arises where a decedent dies without a spouse or issue.[15] Yet while half-blood survivors constitute a small part of the intestate population, modern changes in family structures mean that this category is likely a growing one.[16]

Intestacy statutes are said to reflect lawmakers' assumptions regarding a decedent's probable intent.[17] The treatment of half-blood siblings under the law implicates fundamental policy concerns about identifying and acknowledging members of the family—particularly when the family form is not a traditional one.[18] This article furthers existing scholarship by establishing a framework for understanding how definitions of "family" imbedded in intestacy statutes send messages about who counts as family and about whose families count.[19]

This part discusses donor-conceived offspring in single-mom households, lesbian-parent households, and heterosexual-parent households. These families might be blended in a variety of ways—one might find siblings growing up in the same household who lack any genetic link; siblings growing up in the same household who are only partially genetically linked; and "siblings who share a genetic link, but were born to different families and do not reside in the same household, and may not even know of each other's existence until later in life, if at all."[20]

Heterosexual-Parent Households

Cisgender, heterosexual couples may turn to Assisted Reproductive Technology ("ART") when one or both partners faces a fertility challenge. Historically, married heterosexual couples using donor sperm did so in private.[21] Such sperm was often donated by medical students or physicians; since the "real" progenitor was kept a secret, heterosexual husbands were able to pose as biological fathers.[22] Yet today, the growing availability of DNA testing threatens the pretense that these heterosexual husbands are indeed their children's biological fathers.[23]

Lesbian-Parent Households

An estimated 4.5% of Americans are LGBT.[24] What is *infertility* to many heterosexual-coupled households is often just *fertility* to lesbian-coupled households. "For offspring from lesbian-parent families, donor conception is . . . natural and accepted . . . ."[25]

LGBT couples may come into a partnership with children already; they may adopt; they may use a known donor or an anonymous donor; and in cisgender, lesbian partnerships they may even use the eggs of one mother and the womb of the other. Many (but not all) LGBT parents are raising children who are biologically unrelated to them.[26] And many (but not all) siblings born to LGBT parents lack complete genetic relatedness to one another. Moreover, LGBT people often

understand family beyond biology. Indeed, LGBT people often speak of "chosen family"—of kinship networks based on affinity rather than on things like biology or marriage.[27]

In the 2015 case *Obergefell v. Hodges*, the United States Supreme Court held that the right to marry is a fundamental right inherent in a person's liberty and that same-sex couples may not be deprived of that right.[28] In *Obergefell*, the Court further noted that one material benefit pledged by society to support marital couples involves the laws of intestate succession.[29] With the marriage question settled at the moment, the attention of scholars, activists, and jurists has turned to the implications of *Obergefell* for rights attendant to marriage, including questions of parentage and what might be done to secure legal ties between a child and a non-biologically related adult.[30] Additionally, *Pavan v. Smith* secured a hard-fought right for married lesbian couples; when one spouse gives birth via anonymous sperm donation, the other spouse is now a presumed co-parent to the same extent as opposite-sex couples.[31]

Single-Mom Households

"[S]ingle women . . . who choose to become parents without partners, as well as lesbian couples, are now the largest groups of donor-sperm users."[32] Indeed, some scholars have noted that marriage equality impacts parentage laws governing *all* families—including in single-parent households.[33] By centering intentional and functional parentage over previous models, these scholars argue that "same-sex marriage has the capacity to further the erosion of the line between marital and nonmarital parental recognition."[34]

The term "single mother by choice" first emerged in 1981.[35] Although many sperm banks would not initially serve unmarried women[36] or lesbian couples,[37] today the number of single

women intentionally embarking upon motherhood is increasing.[38] The sperm bank California Cryobank reports that nearly 30% of its clients are so-called single mothers by choice.[39]

II. EXISTING SOCIOLOGICAL LITERATURE ON (AND ADJACENT TO) DONOR SIBLINGS

"The adults were like 'Oh, they're donor siblings.' But they were like, 'We're brothers!'"[40]

There is limited research regarding offspring attitudes towards donor siblings. In 2009 and 2010, Margaret Nelson, Rosanna Hertz, and Wendy Kramer—the co-founder of the Donor Sibling Registry—studied the preferences of donor-conceived offspring in lesbian-parent and heterosexual-parent families.[41] Their research looked at how donor conception shapes children's views regarding their natal families, including among donor siblings. Their study included 133 offspring conceived via sperm donation from lesbian-parent families and 359 offspring conceived via sperm donation from heterosexual-parent families.[42] Respondents from lesbian-parent families (0%) were less likely than respondents from heterosexual-parent families (11%) to believe that being a product of donor conception complicated family relationships.[43]

Hertz, Nelson, and Kramer have also explored views towards donor-conceived offspring in two-parent and single-parent households. Single parents search for donor siblings at higher rates than parents who are partnered.[44] Additionally, when donor siblings do connect, a large group of donor siblings may further divide into smaller cohorts.[45] For example, Oliver and Isabel are donor siblings who share donor number 7008.[46] Yet out of the "7008ers," Oliver maintains a "stance of selectivity"—Oliver has a favorite donor sibling, Isabel.[47] Oliver and Isabel both prefer some donor siblings to others, and they do not try to connect with all of their donor siblings.[48]

Overall, about a third of the respondents (31%) had already connected in some way with one or more donor half-siblings.[49] Among respondents who had not yet connected with donor half-siblings, 89% indicated that they wanted to do so.[50] Offspring from lesbian-parent families were slightly less interested in meeting donor siblings than offspring from heterosexual-parent families (80% versus 91%); "[f]or the offspring in lesbian-parent families, whose lives openly contradict that of heterosexual, genetically linked, two-parent model . . . donor siblings are somewhat more optional."[51]

When donor half-siblings do meet, 42% of these offspring view donor siblings as a part of their nuclear family.[52] By contrast, only 20% of parents who have met donor siblings would consider donor siblings to be a part of *their* nuclear family.[53] In other words, twice as many offspring as parents who have met a donor sibling viewed that donor sibling as part of their nuclear family.[54] This research suggests that who a child considers their sibling is an altogether different question from who a parent considers their child.

In research elsewhere, Professor Nelson has explored people who consider themselves "like family"—known in the literature as "fictive kin."[55] The term "fictive kin" would include "like-family relationships between peers, the short-term co-hosting of hosting adults and unrelated guest children, and informal relationships between what [Professor Nelson has] called informal parents and their unofficial children . . . ."[56] Professor Nelson acknowledges that her research on donor siblings is "very much related (and yet so very different)" to her inquiries involving fictive kin.[57] And unlike donor siblings, fictive kin have been explicitly surveyed regarding their inheritance preferences. Professor Nelson's research demonstrates that individuals privilege blood or legal family *over* fictive kin when it comes to matters of inheritance; in the fictive kinship context, the "*like"* in "like-sibling" bonds became prominent

when conversations turned to matters of inheritance.[58] Yet in contrast to fictive kin or chosen families, donor sibling relationships neither wholly rely on genetics nor wholly rely on choice.

Although no one has conducted research looking at the precise inheritance preferences of donor siblings, emerging sociological research suggests that it is time for scholars of probate law to consider legal siblinghood in this emerging context.[59]

III. (NON)PARENTAGE, (NON)INHERITANCE, AND NON-SPOUSAL SPERM DONORS UNDER MODEL LAW

This part explores the evolution of sperm donors having (non)parentage and (non)inheritance rights under model law— namely under the Uniform Parentage Act (UPA) and the Uniform Probate Code (UPC).[60] This part analyzes the rights and responsibilities of non-spousal sperm donors and does not consider the rights and responsibilities of other parties.[61]

The ways in which probate codes and parentage acts can overlap and intersect are diverse.[62] Some probate codes directly incorporate the Uniform Parentage Act or other domestic relations laws to determine the parent-child relationship for the purpose of inheritance.[63] Other probate codes define the parent-child relationship on the probate code's own terms.[64] Other states instead opt to define the rights and responsibilities of sperm donors in parentage acts outside of model law.[65] Some parentage acts add substantive twists to model language.[66] And many probate codes remain silent on the issue of ART altogether.

Professor Courtney Joselin—the Reporter for the 2017 Uniform Parentage Act and a co-author of Lesbian, Gay, Bisexual, and Transgender Family Law—notes that the parentage of a donor can come into question when a relevant donor provision exists yet the involved parties failed to strictly comply with the terms of the statute.[67] Problems can also emerge in situations where a state entirely lacks a relevant statute addressing the parentage of gamete donors.[68]

1973 Uniform Parentage Act

The Uniform Parentage Act was initially promulgated in 1973 and subsequently revised or amended in 2000, 2002, and 2017. To the extent that the UPC has mirrored the UPA at various points in its history—and most recently in the 2019 UPC—it is instructive to look at how the UPA has evolved over time with respect to sperm donation.

It is safe to say that when the UPA's drafters first considered the issue of artificial insemination, they had little idea of the world awaiting on the horizon. Consider the following exchange from 1972 proceedings in the Committee of the Whole for what would later become the 1973 Uniform Parentage Act:

> Professor Krause: . . . I do not know of a single case of a fertilized egg having been transplanted into another woman and carried to term. I think that they have done it up to—I have heard of cloning, as it is called, which is somewhat different, and they have gone up to salamanders on that, but they haven't progressed beyond salamanders.[69]

All salamanders aside, section 5(b) of the 1973 UPA ultimately provides that, subject to certain conditions, a donor of semen is not treated as the ensuing child's natural father; "[t]he 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 natural father of a child thereby conceived."[70]

Notably, such sperm must be provided to a *married* woman under section 5(b) to trigger treatment of the sperm donor as the non-natural father. This raises unique implications for people donating sperm to unmarried women—including for single-mom households and for lesbian-coupled households pre-*Obergefell*.[71] Additionally, the phrasing seen in section 5(b) does not provide certainty when sperm donation occurs without the assistance of a licensed physician.[72]

Today, at least three states have statutory language that is identical or nearly identical to section 5(b): Minnesota,[73] Missouri,[74] and Montana.[75] Many other states retain the requirement of a medical provider's involvement, including in Alabama,[76] Kansas,[77] New Jersey,[78] and Wisconsin.[79] And some states, like Alabama,[80] retain the requirement of donation to a *married woman* to absolve the donor of parental obligations.

The 1973 UPA did not venture to define the word "donor" beyond section 5(b). Indeed, the comments to the 1973 UPA acknowledge that "[t]his Act does not deal with many complex and serious legal problems raised by the practice of artificial insemination."[81]

2000 Uniform Parentage Act

Section 702

The Uniform Parentage Act was next revised in 2000. Section 702 of the 2000 UPA did away with the licensed physician and marriage requirements: "[a] donor is not a parent of a child conceived by means of assisted reproduction."[82] Although at times subject to additional considerations, at least fourteen states have statutory language providing that a donor or is not a parent of a child conceived through assisted reproduction, including in Delaware,[83] Illinois,[84] Maine,[85] Nevada,[86] New Hampshire,[87] New Mexico,[88] North Dakota,[89] Rhode Island,[90] Texas,[91] Utah,[92] Vermont,[93] Virginia,[94] Washington,[95] and Wyoming.[96]

Definition of "Donor"

Although section 702 has not notably changed since 2000,[97] the definition of the term "donor" did change over the course of the 2000, 2002, and 2017 Acts. Section 102 of the 2000 UPA defines "donor" as "an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration."[98] Yet the term does not include "a husband who

provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife" or "a woman who gives birth to a child by means of assisted reproduction," except as otherwise provided in Article 8 of the 2000 UPA on gestational agreements.[99]

2002 Uniform Parentage Act

Section 702

The 2002 amendments did not change the language of section 702 from the 2000 revision.

Definition of "Donor"

The 2002 UPA added to the list of exclusions under the section 102 definition of "donor" "a parent under Article 7 [or an intended parent under Article 8]."[100] Article 8 addresses gestational agreements, while Article 7 broadly addresses children of assisted reproduction.

2008 & 2010 Uniform Probate Codes

"In 2008, the Uniform Probate Code . . . added . . . new and much-needed sections on the complicated parentage and inheritance issues that arise in the field of assisted reproduction."[101] Indeed, the 2008 revisions to the UPC added new provisions regarding assisted reproductive technology—provisions that remained unchanged during the 2010 amendments.

The 2008 UPC states that, "[a] parent-child relationship does not exist between a child of assisted reproduction and a third-party donor."[102] This section also defines "third-party donor" as "an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration," subject to certain exclusions.[103]

Indeed, much of the 2008 UPC mirrors language seen in the Uniform Parentage Act. For example, the 2008 comments note that the definition of "third-party donor" in the UPC was

based on the definition of "donor" in the UPA section 102.[104] Moreover, the comments note that the language reading "[a] parent-child relationship does not exist between a child of assisted reproduction and a third-party donor" is consistent with UPA section 702.[105]

At this writing, language similar to UPC section 2-120 is operative in the probate codes of four states: Colorado,[106] Minnesota,[107] New Mexico,[108] and North Dakota.[109]

2017 Uniform Parentage Act

Professor Joslin notes that one goal of the 2017 UPA was to remove the "gender-based distinctions that have long shaped parentage law" in order to bring the UPA into compliance with decisions such as *Obergefell* and *Pavan*.[110] Additionally, Professor Joslin notes that many changes seen in the 2017 UPA reflect the scholarship of Professor Douglas NeJaime—and particularly his article *The Nature of Parenthood* that explores "why parentage law fails to protect LGBT-parent families and how it can be reformed to address those gaps in protection."[111]

Indeed, Professor NeJaime's scholarship has long focused on intentional and functional parenthood, "two related—and often complementary—approaches to parental recognition."[112] Intentional parenthood centers on the *intent* to be a child's parent, while functional parenthood centers on the *act of raising* that child.[113] In practice, however, intentional and functional approaches to parental recognition often bleed together; when individuals jointly plan to have a child, they often raise that child together.[114]

Section 702

The 2017 revision changed the language of section 702 in a relatively minor way by deleting the phrase "means of" in the phrase "by means of assisted reproduction."[115]

Definition of "Donor"

Section 102 of the 2017 UPA replaces the phrase "eggs or sperm" with "gametes" and adds an intention requirement, defining a donor as "an individual who provides gametes intended for use in assisted reproduction, whether or not for consideration."[116] The 2017 version also contains a list of exclusions from the term "donor," namely "a woman who gives birth to a child conceived by assisted reproduction" except as otherwise provided in Article 8; "a parent" under Article 7; or an "intended parent" under Article 8.[117]

2019 Uniform Probate Code

The 2019 revisions do not attempt to define the parent-child relationship on the UPC's own terms. UPC section 2-120 now references the 2017 UPA explicitly: "[e]xcept as otherwise provided under Section 2-121, parentage of an individual conceived by assisted reproduction is determined under [cite to Uniform Parentage Act (2017) Article 7 other than Section 708(b)(2)][cite to equivalent provisions of state's parentage act][applicable state law]."[118]

As mentioned above, section 702 of the 2017 UPA specifies that "[a] donor is not a parent of a child conceived by assisted reproduction."[119] At this writing, no states have adopted the language of section 2-120 from the 2019 UPC.

IV. HISTORY OF THE HALF-BLOOD DISTINCTION & EXISTING SCHOLARSHIP ON HALF-BLOODS

> "Legislatures . . . misperceive the purpose of intestacy laws when they base a half-blood statute on the common parent's view of proper estate distribution for his children. Rather, legislatures should base half-blood statutes on the wishes of the children themselves."[120]

Under English common law, "half-blood relatives shared the intestate decedent's personalty along with whole-blood relatives of the same degree; however, the common law always excluded the half-blood relative from the descent of land—and for centuries land was what survivors most likely coveted."[121] As reflected below in the fifty-state survey attached in the appendix, approaches distinguishing between personalty and land never gained much traction in the United States.[122]

Model law is beginning to align itself around the idea that sperm donors are not parents—regardless of whether such sperm encounters a physician or an unmarried recipient. As explained in Part III, the 2017 UPA—and by reference the 2019 UPC—were heavily influenced by scholarship on intentional and functional parentage. This article takes questions of functional families one generation further to the sibling relationship. Today, some states follow the UPC approach and permit so-called "half-bloods" and "whole-bloods" to inherit equally. Yet some probate codes treat "half-bloods" less preferentially to "whole-bloods."

Under model law, a non-spousal sperm donor is not likely to be a parent; therefore, donor siblings are not likely to inherit. Yet putting on a functional lens, the differential treatment of "half-bloods" and donor siblings becomes illogical. In Minnesota, a *half-blood sibling* of Ivan Intestate could inherit from Ivan—even if that half-sibling wasn't raised with Ivan, barely knew him, or never met Ivan.[123] But a Minnesotan *donor sibling* who shared memories, vacations, and half of Ivan's DNA would inherit nothing.[124] Scholars fear that when intestacy's default rules routinely include individuals in ways that are out of step with the emotional or functional role that such a person plays in the decedent's life, these rules will produce "inefficient outcomes that lead to a waning faith in the probate process."[125]

The principal policy goal for developing a half-blood sibling statute is to effectuate the probable intent of a decedent survived by half-blood siblings.[126] In 2005, Professor Ralph C. Brashier conducted a survey of approaches to half-blood siblings and inheritance.[127] The sibling relationship—at least among young children—is unique in that it may depend upon a chain of adult relationships.[128] In this way, it is hard to imagine an "intentional siblinghood" centering on *siblings'* intent or plan to be siblings.[129] An intentional approach in the sibling context is further complicated in time and space—when is the relevant "intent" supposed to accrue? However, it is easier to imagine a functional approach to siblinghood that centers on the act of nurturing a sibling relationship over time.[130] A central thesis of this article is that just as the "logic of parenthood" cited by Professor NeJaime shifted to accommodate same-sex families,[131] the logic of siblinghood must now shift to accommodate donor-conceived families.

The 2019 UPC revised the contours of the parent-child relationship via a reference to the 2017 UPA. The 2019 UPC also revisited the term "half-blood" sibling. The Prefatory Note to the 2019 UPC states that the drafters removed "outdated" references to relatives of the "half-blood" or "whole-blood" from the pre-2019 versions of section 2-107.[132] Indeed, the comments to section 2 -107 in the 2019 UPC cite "assisted reproduction" as one reason why the term half-blood is now outdated.[133] Consequently, section 2-107 is no longer entitled "Kindred of Half Blood" but rather "Inheritance Without Regard to Number of Common Ancestors In Same Generation."[134] That section now reads as follows: "[a]n heir inherits without regard to how many common ancestors in the same generation the heir shares with the decedent."[135]

V. FIFTY-STATE SURVEY

The predominant approach in the United States—and the approach taken by the UPC—is to make no distinction between the inheritance rights of half-blood and whole-blood siblings. At

this writing, no states have adopted the 2019 UPC revisions. Therefore, all mentions of the "UPC approach" throughout this paper refer to the pre-2019 text.

As outlined below in the appendix, while most states accomplish the UPC result by statute, two states accomplish this result via case law. Two distinct, minority approaches also emerge: (1) treating half-blood siblings equally to whole-bloods *except* with respect to ancestral property,[136] and (2) treating half-bloods unequally—and less favorably—to whole-bloods across the board.

The UPC approach may be over-inclusive when it comes to half-blood siblings; some half-blood siblings may never come to know of each other.[137] For states that offer equal treatment between half-bloods and whole-bloods except for ancestral property, the same issue regarding over-inclusion is present for all non-ancestral property. It is worth noting, however, that since Professor Brashier's 2005 survey, the trend has been for states to move away from the ancestral property approach and towards the UPC approach.[138]

The minority approaches actually encompass a number of similarly-situated approaches. Some states provide that where half-blood siblings *and* whole-blood siblings exist, half-bloods will inherit half as much. In other states, the estate is divided into two halves—one for the deceased mother's issue and one for the deceased father's issue. Mississippi provides that "kindred of the whole-blood, in equal degree, shall be preferred to the kindred of the half-blood in the same degree."[139] These minority approaches may be underinclusive by excluding half-bloods who have forged meaningful relationships.

In states where non-spousal sperm donors are not "parents" under that state's probate code, distinctions would likely remain between the rights of donor siblings, half-blood siblings,

and whole-blood siblings. The result in many states would be that where an intestate lacks a spouse, parent(s), or issue, the intestate's siblings would be in line to inherit. However, blood does not necessarily make a family (or any fraction thereof)—intestate *donor siblings* would not likely inherit from each other, *half-bloods* may or may not inherit from each other depending on the jurisdiction, and *whole-bloods* would almost certainly inherit from each other.

VI. A PROPOSAL REGARDING THE INHERITANCE RIGHTS OF DONOR SIBLINGS & "FUNCTIONAL SIBLINGHOOD"

"An assumption that the shared blood of one parent makes half-siblings a family is inaccurate."[140] Professor Brashier's 2005 scholarship offered two potential approaches to reforming half-blood sibling statutes: (1) discretionary determinations allowing probate courts to look into the intent of a particular intestate decedent or (2) limited objective determinations that would use objective evidence to indicate that a decedent considered his half-blood sibling to be a member of his family in such a way that the half-blood should inherit.[141]

When researchers of donor sibling networks are asked about whether donor sibling connections "heighten the significance of genes, and thereby make genes more important than sociability as the basis for the connection of kin across families," these researchers must paradoxically respond "yes and no"—there is "no connection among these genetic relatives without volition . . . ."[142] One approach to address this mix of genetics and volition would be to create a rebuttable presumption. Starting from the position taken by the 2017 UPA and the 2019 UPC—that donor siblings would *not* inherit as half-siblings—state legislatures could then craft a rebuttable presumption requiring a showing that a particular set of donor siblings indeed *functioned* as siblings, with a decedent's donor sibling bearing that burden of proof. Indeed, functional definitions of family are evident not only in Professor Brashier's earlier work[143] but

also throughout parallel scholarship from Professor NeJaime exploring functional parentage.[144] Although empirical research into the intestacy preferences of donor siblings is needed, a rebuttable presumption would offer flexibility to navigate the fact that nearly half of donor-conceived offspring view donor siblings as a part of a shared, nuclear family.[145]

Professor Brashier's 2005 scholarship noted that the existence of sibling ties could be evaluated using metrics including the cohabitation of adult siblings; pooled financial resources; (un)awareness of the other sibling's existence; and "shared upbringing" or "significant family interaction" with the decedent.[146] Some of these factors do not neatly translate to the donor sibling context. For example, regarding "shared upbringing," donor siblings are—by definition—born into and raised within different households.

Yet some of the factors suggested by Professor Brashier might also shed light on the donor sibling context. For example, regarding "significant family interaction" and awareness of the other sibling's existence, existing sociological research suggests that whether donor siblings have met plays a significant role over whether donor siblings consider each other to be part of the same nuclear family.[147] And as demonstrated by the relationship between Oliver and Isabel in Part II, donor sibling relationships should be analyzed on a case-by-case basis.[148] Therefore, evidence of donor sibling ties would likely include an analysis of whether a particular set of donor siblings have met and an evaluation of the significance of those contacts over time.

Defining families in functional terms is not a unique idea—not even within probate law. For example, the Restatement (Third) of Property provides that for class gift purposes, a child born through ART is treated as a child of a person who consented to *function* as a parent.[149] Judicial determinations of behavior already exist in intestacy statutes when determining if a parent abandoned, refused to support, or abused a child.[150] One Pennsylvania statute presents a

unique take on function in the context of adoption; while there is a general rule that an adopted person is *not* considered to be the issue of his natural parents, Pennsylvania recognizes an exception where family relationships continue for grandparents and others after an adoption has occurred.[151] Indeed, Pennsylvania would permit inheritance by and through grandparents and others who have "maintained a family relationship with the adopted person."[152]

VII. CONCLUSION

While scholars like Professor Brashier have infused intent and function into our understanding of half-siblinghood, legislatures have been slow to adopt Professor Brashier's proposed approaches. Perhaps an interim step when exploring functional siblinghood, then, could come in the narrower context of ART and donor siblings. In light of the current sociological literature, the difficulty of this project comes in minding the margins and deciphering—out of a potentially large pool—which donor siblings a decedent would likely wish to inherit and which individuals would be more akin to "genetic strangers." Additionally, any concerns about judicial economy when adopting a functional analysis of donor siblinghood would likely be alleviated by the fact that it is relatively rare for collaterals such as siblings to inherit.[153]

To date, no scholar has explicitly explored the inheritance preferences of donor siblings. Nevertheless, the research of Nelson, Hertz, and Kramer offers a framework by which scholars of probate law might begin exploring the intestacy preferences of donor siblings. Legislators crafting intestacy statutes must now grapple with the reality that donor-conceived children like Spencer would draw a family tree with seventeen twigs.[154] These relationships are neither wholly based on genetics nor wholly based on choice.[155] And because many probate codes give the sibling relationship a unique set of rights and responsibilities, scholars and legislators are

presented with the opportunity to expand functional definitions of family one generation past the parent-child context to keep pace with these evolving family structures.

Appendix

50 State Survey of "Half-Blood" vs. "Whole-Blood" Treatment

	Statute – Pre-2019 UPC Approach – Equal Treatment	**Case Law – Pre-2019 UPC Approach – Equal Treatment**	**Equal Treatment Except Ancestral Property**	**Half-Bloods Treated Unequally**
ALA. CODE § 43-8-46 (Westlaw through Acts 2021-174, Acts 2021-177 through 2021-182, and also includes Acts 2021-184, 2021-186, 2021-187, 2021-189 through 2021-193, and 2021-195 through 2021-199)	X			
ALASKA STAT. ANN. § 13.12.107 (West, Westlaw through Chapter 1 of the 2021 First Regular Session of the 32nd Legislature)	X			
ARIZ. REV. STAT. ANN. § 14-2107 (West, Westlaw through legislation effective February 12, 2021 of the First Regular Session of the Fifty-Fifth Legislature (2021))	X			
ARK. CODE ANN. § 28-9-213 (West, Westlaw through Acts 18, 20, 56, 60, 87, 94, and 151 passed by the 2021 Regular Session of the 93rd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through December 15, 2020)	X			
CAL. PROB. CODE § 6406 (West, Westlaw through Ch. 9 of 2021 Reg. Sess.)	X			
COLO. REV. STAT. ANN. § 15-11-107 (West, Westlaw through Ch. 7 of the First Regular Session of the 73rd General Assembly (2021))	X			
CONN. GEN. STAT. ANN. § 45a-439 (West, Westlaw through all enactments of the 2020 Regular Session, the 2020 July Special Session, and the 2020 September Special Session)	X			

DEL. CODE ANN. TIT. 12, § 506 (West, Westlaw through ch. 3 of the 151st General Assembly (2021-2022))	X			
FLA. STAT. ANN. § 732.105 (West, Westlaw through the 2020 Second Regular Session of the 26th Legislature)				X
GA. CODE ANN. § 53-2-1 (West, Westlaw through laws passed at the 2020 legislative sessions)	X			
HAW. REV. STAT. ANN. § 532-8 (West, Westlaw through the end of the 2020 Regular Session)			X	
IDAHO CODE ANN. § 15-2-107 (West, Westlaw through Chapter 13 of the First Regular Session of the 66th Idaho Legislature, which convened on Monday, January 11, 2021)	X			
755 ILL. COMP. STAT. ANN. 5/2-1 (West, Westlaw through P.A. 101-673 of the 2020 Reg. Sess., and P.A. 102-3 of the 2021 Reg. Sess.)	X			
IND. CODE ANN. § 29-1-2-5 (West, Westlaw through all legislation of the 2020 Second Regular Session of the 121st General Assembly)	X			
IOWA CODE ANN. § 633.219 (West, Westlaw through 2/23/2021 from the 2021 Regular Session, subject to changes made by Iowa Code Editor for Code 2022)				X
KAN. STAT. ANN. § 59-508 (West, Westlaw through laws enacted during the 2021 Regular Session of the Kansas Legislature effective on January 25, 2021)				X
KY. REV. STAT. ANN. § 391.050 (West, Westlaw through Chapter 8 of the 2021 Regular Session and the Nov. 3, 2020 election)				X
LA. CIV. CODE ANN. ART. 893 (West, Westlaw through the 2020 Second Extraordinary Session)				X
ME. REV. STAT. TIT. 18-C, § 2-107 (West, Westlaw through the 2019 Second Regular Session of the 129th Legislature)	X			

MD. CODE ANN., EST. & TRUSTS § 1-204 (West, Westlaw through legislation effective February 15, 2021, from the 2021 Regular Session of the General Assembly)	X			
MASS. GEN. LAWS ANN. CH. 190B, § 2-107 (West, Westlaw through Chapter 3 of the 2021 1st Annual Session)	X			
MICH. COMP. LAWS ANN. § 700.2107 (West, Westlaw through P.A.2020, No. 402, of the 2020 Regular Session, 100th Legislature)	X			
MINN. STAT. ANN. § 524.2-107 (West, Westlaw through Feb. 13, 2021 from the 2021 Regular Session)	X			
MISS. CODE. ANN. § 91-1-5 (West, Westlaw through the 2021 Regular Session effective upon passage as approved through Feb. 8, 2021)				X
MO. ANN. STAT. § 474.040 (West, Westlaw through the end of the 2020 Second Regular Session and First and Second Extraordinary Sessions of the 100th General Assembly)				X
MONT. CODE ANN. § 72-2-117 (West, Westlaw through chapters effective February 18, 2021 of the 2021 Session)	X			
NEB. REV. STAT. ANN. § 30-2307 (West, Westlaw through the end of the 2nd Regular Session of the 106th Legislature (2020))	X			
NEV. REV. STAT. ANN. § 134.160 (West, Westlaw through the end of both the 31st and 32nd Special Sessions (2020))	X			
See In re Gault Estate, 366 A.2d 465, 466-67 (N.H. 1965)		X		
N.J. STAT. ANN. § 3B:5-7 (West, Westlaw through L.2020, c. 156 and J.R. No. 6)	X			
N.M. STAT. ANN. § 45-2-107 (West, Westlaw through Ch. 3 of the 1st Regular Session of the 55th Legislature (2021))	X			
N.Y. EST. POWERS & TRUSTS LAW § 4-1.1 (McKinney through L.2021, chapters 1 to 49, 61 to 68)	X			

N.C. GEN. STAT. ANN. § 29-3 (West, Westlaw through the end of the 2020 Regular Session of the General Assembly)	X			
N.D. CENT. CODE ANN. § 30.1-04-07 (West, Westlaw through the 2019 Regular Session of the 66th Legislative Assembly)	X			
OHIO REV. CODE ANN. § 2105.06 (West, Westlaw through File 115 (end) of the 133rd General Assembly (2019-2020))	X			
OKLA. STAT. ANN. TIT. 84, § 222 (West, Westlaw through Chapter 1 of the First Regular Session of the 58th Legislature (2021))			X	
OR. REV. STAT. ANN. § 112.095 (West, Westlaw through laws enacted in the 2020 Regular Session of the 80th Legislative Assembly, which adjourned sine die March 3, 2020).	X			
20 PA. STAT. AND CONS. STAT. ANN. § 2104 (West, Westlaw through 2021 Regular Session Act 4)	X			
See McNeal v. Sherwood, 24 R.I. 314, 53 A. 43, 43 (1902)		X		
S.C. CODE ANN. § 62-2-107 (West, Westlaw through 2021 Act No. 15, subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws)	X			
S.D. CODIFIED LAWS § 29A-2-107 (West, Westlaw through laws of the 2021 Regular Session effective March 3, 2021)	X			
TENN. CODE ANN. § 31-2-107 (West, Westlaw through the 2021 First Extraordinary Sess. of the 112th Tennessee General Assembly, eff. through February 3, 2021)	X			
TEX. EST. CODE ANN. § 201.057 (West, Westlaw through the end of the 2019 Regular Session of the 86th Legislature)				X

UTAH CODE ANN. § 75-2-107 (West, Westlaw through the 2020 Sixth Special Session)	X			
VT. STAT. ANN. TIT. 14, § 331 (West, Westlaw through Acts 1 through 2 of the Regular Session of the 2021-2022 Vermont General Assembly (2021))	X			
VA. CODE ANN. § 64.2-202 (West, Westlaw through the 2021 Regular Session cc. 1 & 2)				X
WASH. REV. CODE ANN. § 11.04.035 (West, Westlaw Chapter 5 of the 2021 Regular Session of the Washington Legislature)			X	
W. VA. CODE ANN. § 42-1-3e (West, Westlaw through legislation of the 2021 Regular Session effective through February 18, 2021)	X			
WIS. STAT. ANN. § 852.03 (West, Westlaw through 2019 Act 186, published April 18, 2020); WIS. STAT. ANN. § 854.21 (West, Westlaw through 2019 Act 186, published April 18, 2020)	X			
WYO. STAT. ANN. § 2-4-104 (West, Westlaw through Chapters 1-3 of the 2020 Special Session of the Wyoming Legislature).	X			

[1] ROSANNA HERTZ & MARGARET K. NELSON, RANDOM FAMILIES: GENETIC STRANGERS, SPERM DONOR SIBLINGS, AND THE CREATION OF NEW KIN 1 (2019).
[2] Donor Sibling Registry, https://www.donorsiblingregistry.com/ (last visited Apr. 16, 2021).
[3] *See* HERTZ & NELSON, *supra* note 1, at 5.
[4] Naomi Cahn, No Secrets: Openness and Donor-Conceived "Half-Siblings," 39 CAP. U. L. REV. 313, 316 (2011).
[5] R. Hugh Magill, Estate Planning and Trust Management for A Brave New World: It's All in the Family ... What's A Family?, 44 ACTEC L.J. 257, 266 (2019).
[6] Rosanna Hertz et al., Donor Sibling Networks as a Vehicle for Expanding Kinship: A Replication and Extension, 38 J. FAMILY ISSUES 248, 264 (2017).
[7] HERTZ & NELSON, *supra* note 1, at 70.
[8] Hertz et al., *supra* note 6, at 274.
[9] HERTZ & NELSON, *supra* note 1, at 3.
[10] *Id.*
[11] *Id.*
[12] Jacqueline Mroz, The Case of the Serial Sperm Donor, N.Y. TIMES (Feb. 1, 2021), https://www.nytimes.com/2021/02/01/health/sperm-donor-fertility-meijer.html.
[13] HERTZ & NELSON, *supra* note 1, at 11.
[14] *See, e.g.*, UNIF. PROB. CODE § 2-120 (Unif. L. Comm'n 2019), [hereinafter 2019 UPC] (entitled "Individual Conceived by Assisted Reproduction But Not Born to Gestational or Genetic Surrogate"); 2019 UPC § 2-121 (entitled "Individual Born to Gestational or Genetic Surrogate").
[15] Ralph Calhoun Brashier, Half-Bloods, Inheritance, and Family, 37 U. Mem. L. Rev. 215, 233-34 (2007).
[16] *Id.* at 234.
[17] *Id.* at 237.
[18] Ralph Calhoun Brashier, Consanguinity, Sibling Relationships, and the Default Rules of Inheritance Law: Reshaping Half-Blood Statutes to Reflect the Evolving Family, 58 SMU L. REV. 137, 148 (2005).
[19] *See* Susan Gary, The Parent-Child Relationship Under Intestacy Statutes, 32 U. MEM. L. REV. 643, 645 (2002).
[20] Ruth Zafran, Reconceiving Legal Siblinghood, 71 HASTINGS L.J. 749, 753 (2020).
[21] Margaret K. Nelson et al., Making Sense of Donors and Donor Siblings: A Comparison of the Perceptions of Donor-Conceived Offspring in Lesbian-Parent and Heterosexual-Parent Families, in VISIONS OF THE 21ST CENTURY FAMILY: TRANSFORMING STRUCTURES AND IDENTITIES 3, 2-3 (Patricia Neff Claster & Sampson Lee Blair, eds., 1st ed. 2013).
[22] *Id.* at 3.
[23] *Id.*
[24] Justin McCarthy, Americans Still Greatly Overestimate U.S. Gay Population GALLUP (June 27, 2019), https://news.gallup.com/poll/259571/americans-greatly-overestimate-gay-population.aspx.
[25] Nelson et al., *supra* note 21, at 34.
[26] Note that not all LGBT couples are unable to have children who are genetically related to two parents. Consider, for example, how two transgender partners of the opposite sex could have a child who is biologically related to both parents.

[27] *See, e.g.*, Nancy J. Knauer, "Gen Silent": Advocating for LGBT Elders, 19 ELDER L.J. 289, 303 (2012).
[28] Obergefell v. Hodges, 576 U.S. 644, 675 (2015).
[29] Obergefell, 576 U.S. at 669-670.
[30] *See, e.g.*, Libby Adler, Inconceivable: Status, Contract, and the Search for A Legal Basis for Gay & Lesbian Parenthood, 123 PENN ST. L. REV. 1 (2018).
[31] *See* Pavan v. Smith, 137 S. Ct. 2075, 2078-79 (2017); id. at 2-3.
[32] WENDY KRAMER & NAOMI CAHN, FINDING OUR FAMILIES, 4 (2013).
[33] Douglas NeJaime, Marriage Equality and the New Parenthood, 129 Harv. L. Rev. 1185, 1190-91 (2016).
[34] *Id.* at 1191.
[35] Sarah R. Hayford & Karen Benjamin Guzzo, The Single Mother by Choice Myth, 14 CONTEXTS 70, 70 (2015).
[36] *Id.*
[37] Katie Bazza, From Sperm Runners to Sperm Banks: Lesbians, Assisted Conception, and Challenging the Fertility Industry, 1271-1983, 28 J.WOMENS HIST. 82, 82 (2016).
[38] Susanna Graham, Choosing Single Motherhood? Single Women Negotiating the Nuclear Family Ideal, in FAMILIES—BEYOND THE NUCLEAR IDEAL 97, 97 (Daniela Cutas & Sarah Chan, eds., 1st ed. 2012).
[39] Hayford & Guzzo, *supra* note 35.
[40] Abbie E. Goldberg & Joanna E. Scheib, Female-Partnered Women Conceiving Kinship: Does Sharing a Sperm Donor Mean We are Family?, 20 J. Lesbian Stud. 427, 435 (2016).
[41] Nelson et al., *supra* note 21, at 9.
[42] *Id.* at 11.
[43] *Id.* at 24.
[44] Hertz et al., *supra* note 8, at 255 n. 4.
[45] HERTZ & NELSON, *supra* note 1, at 129-31.
[46] *Id.* at 131.
[47] *Id.*
[48] *Id.*
[49] Nelson et al., *supra* note 21, at 28.
[50] *Id.* at 29.
[51] *Id.* at 29, 37.
[52] Hertz et al., *supra* note 6, at 274.
[53] *Id.* at 275.
[54] *See id.*
[55] MARGARET NELSON, LIKE FAMILY 3 (2020).
[56] *Id.* at 143.
[57] *Id.* at 142.
[58] *Id.* at 43.
[59] *See* Hertz et al., *supra* note 6, at 274.
[60] This article intentionally omits the Uniform Status of Children of Assisted Conception Act.
[61] For a comprehensive overview of statutory provisions addressing the rights and obligations of gamete donors generally, *see* Courtney G. Joselin et al., § 3:13. Statutory Provisions Addressing the Legal Rights and Obligations of Gamete Donors, in LESBIAN, GAY, BISEXUAL, AND TRANSGENDER FAMILY LAW (Sept. 2020).

[62] *See* Ralph C. Brashier, Children and Inheritance in the Nontraditional Family, 1996 UTAH L. REV. 93, 114-15 (1996).
[63] *See, e.g.*, 2019 UPC § 2-120; *see also* Emily McAllister, Defining the Parent-Child Relationship in an Age of Reproductive Technology: Implications for Inheritance, 29 REAL PROP. PROB. & TR. J. 55, 66-67 (1994).
[64] *See, e.g.*, CONN. GEN. STAT. ANN. § 45a-777 (West, Westlaw through all enactments of 2021 Regular Session enrolled and approved by the Governor on or before March 4, 2021 and effective on or before March 4, 2021).
[65] *See, e.g.*, OR. REV. STAT. ANN. § 109.239 (West, Westlaw through the 2020 Regular Session of the 80th Legislative Assembly, which adjourned sine die March 3, 2020); Ala. Code § 26-17-702 (West, Westlaw through Act 2021-118).
[66] N.Y. Fam. Ct. Act § 581-302 (McKinney, McKinney through L.2021, chapters 1 to 49, 61 to 88).
[67] Joselin et al., *supra* note 61.
[68] *Id.*
[69] Nat'l Conference of Comm'rs of Unif. State Laws, 1972 Proceedings in Committee of the Whole, Uniform Legitimacy Act 16-17.
[70] UNIF. PARENTAGE ACT § 5(b) (UNIF. L. COMM'N 1973) [hereinafter 1973 UPA].
[71] *See* Helene S. Shapo, Matters of Life and Death: Inheritance Consequences of Reproductive Technologies, 25 Hofstra L. Rev. 1091, 1121 (1997).
[72] *See, e.g.*, *id.*
[73] MINN. STAT. ANN. § 257.56 (West, Westlaw through March 30, 2021 from the 2021 Regular Session).
[74] MO. ANN. STAT. § 210.824 (West, Westlaw through the end of the 2020 Second Regular Session and First and Second Extraordinary Sessions of the 100th General Assembly).
[75] MONT. CODE ANN. § 40-6-106 (West, Westlaw through chapters effective February 2021 of the 2021 Session).
[76] ALA. CODE § 26-17-702 (West, Westlaw through Act 2021-118).
[77] KAN. STAT. ANN. § 23-2208 (West, Westlaw through laws enacted during the 2021 Regular Session of the Kansas Legislature effective on April 1, 2021).
[78] N.J. STAT. ANN. § 9:17-44 (West, Westlaw through L.2021, c. 32 and J.R. No. 1).
[79] WIS. STAT. ANN. § 891.40 (West, Westlaw through 2019 Act 186, published April 18, 2020).
[80] ALA. CODE § 26-17-702 (West, Westlaw through Act 2021-118).
[81] 1973 UPA § 5 cmt.
[82] UNIF. PARENTAGE ACT § 702 (UNIF. L. COMM'N 2000) [hereinafter 2000 UPA].
[83] DEL. CODE ANN. TIT. 13, § 8-702 (West, Westlaw through ch. 11 of the 151st General Assembly (2021-2022).
[84] 750 ILL. COMP. STAT. ANN. 46/702 (West, Westlaw through P.A. 101-673 of the 2020 Reg. Sess., and P.A. 102-3 of the 2021 Reg. Sess.).
[85] ME. REV. STAT. TIT. 19-A, § 1922 (West, Westlaw through Chapter 31 of the 2021 First Regular Session of the 130th Legislature).
[86] NEV. REV. STAT. ANN. § 126.660 (West, Westlaw through legislation of the 81st Regular Session (2021) effective as of April 8, 2021).
[87] N.H. REV. STAT. ANN. § 168-B:2 (West, Westlaw through 2020 Reg. Sess. of the General Court).

[88] N.M. STAT. ANN. § 40-11A-702 (West, Westlaw through emergency legislation through Ch. 43 of the 1st Regular Session of the 55th Legislature (2021)).
[89] N.D. CENT. CODE ANN. § 14-20-60 (West, Westlaw through emergency effective laws from the 2021 Regular Session of the 67th Legislative Assembly effective through April 9, 2021).
[90] R.I. GEN. LAWS ANN. § 15-8.1-702 (West, Westlaw through the 2020 Regular Session).
[91] TEX. FAM. CODE ANN. § 160.702 (West, Westlaw through the end of the 2019 Regular Session of the 86th Legislature).
[92] UTAH CODE ANN. § 78B-15-702 (West, Westlaw through the 2020 Sixth Special Session).
[93] VT. STAT. ANN. TIT. 15C, § 702 (West, Westlaw through Acts 1 through 6 of the Regular Session of the 2021-2022 Vermont General Assembly (2021)).
[94] VA. CODE ANN. § 20-158 (West, Westlaw through the End of 2021 Regular Session and Special Session I cc. 5, 34, 55, 56, 61, 78, 82, 85, 110, 117, 118, 171, 216, 220, 243, 272).
[95] WASH. REV. CODE ANN. § 26.26A.605 (West, Westlaw through Chapter 9 of the 2021 Regular Session of the Washington Legislature).
[96] WYO. STAT. ANN. § 14-2-902 (West, Westlaw through April 5, 2021 of the 2021 Regular Session of the Wyoming Legislature).
[97] The 2017 UPA deleted the phrase "means of" from "by means of assisted reproduction" in section 702 without comment.
[98] 2000 UPA § 102.
[99] *Id.*
[100] UNIF. PARENTAGE ACT § 102 (UNIF. L. COMM'N 2002).
[101] Kristine S. Knaplund, Children of Assisted Reproduction, 45 U. MICH. J.L. REFORM 899, 900 (2012).
[102] UNIF. PROB. CODE § 2-120 (amended 2008) [hereinafter 2008 UPC].
[103] *Id.*
[104] *Id.* at § 2-120 cmt.
[105] *Id.*
[106] COLO. REV. STAT. ANN. § 15-11-120 (West, Westlaw through legislation effective March 21, 2021 of the First Regular Session of the 73rd General Assembly (2021)).
[107] MINN. STAT. ANN. § 524.2-120 (West, Westlaw through Mar. 24, 2021 from the 2021 Regular Session).
[108] N.M. STAT. ANN. § 45-2-120 (West, Westlaw through Ch. 6 of the 1st Regular Session of the 55th Legislature (2021)).
[109] N.D. CENT. CODE ANN. § 30.1-04-19 (West, Westlaw through the 2021 Regular Session of the 67th Legislative Assembly effective through March 18, 2021).
[110] Courtney G. Joslin, Nurturing Parenthood Through the UPA (2017), 127 YALE L.J. FORUM 589, 589 (2018).
[111] *Id.* at 590-91.
[112] Douglas NeJaime, The Story of Brooke S.B. v. Elizabeth A.C.C.: Parental Recognition in the Age of LGBT Equality, in REPRODUCTIVE RIGHTS AND JUSTICE STORIES 245, 257 (Melissa Murray et al., eds., 2019).
[113] *Id.*
[114] *Id.*
[115] *See* UNIF. PARENTAGE ACT § 702 (UNIF. L. COMM'N 2017) [hereinafter 2017 UPA].
[116] *See* id. at § 102.
[117] *Id.*

[118] 2019 UPC § 2-120.
[119] 2017 UPA 702.
[120] Brashier, *supra* note 18, at 150-51.
[121] *See id.* at 161-62.
[122] I*d.* at 162.
[123] *See* MINN. STAT. ANN. § 524.2-107 (West, Westlaw through Feb. 13, 2021 from the 2021 Regular Session).
[124] *See* MINN. STAT. ANN. § 524.2-120 (West, Westlaw through Mar. 24, 2021 from the 2021 Regular Session).
[125] Brashier, *supra* note 15, at 245.
[126] *Id.* at 237.
[127] Brashier, *supra* note 18, at 141.
[128] *See* Zafran, *supra* note 20, at 754.
[129] "[N]o single respondent (either parent or child) *sought* to disrupt the 'insular' legal family created by donor gametes." HERTZ & NELSON, *supra* note 1, at 51 (emphasis added).
[130] *See* NeJaime, *supra* note 112, at 257.
[131] *See* NeJaime, *supra* note 33, at 1190.
[132] 2019 UPC Prefatory Note.
[133] 2019 UPC § 2-107 cmt.
[134] 2019 UPC § 2-107.
[135] *Id.*
[136] *See* Brashier, *supra* note 15, at 249.
[137] *See id.* at 219.
[138] *See, e.g.* NEV. REV. STAT. ANN. § 134.160 (West, Westlaw through the end of both the 31st and 32nd Special Sessions (2020)).
[139] MISS. CODE. ANN. § 91-1-5 (West, Westlaw through the 2021 Regular Session effective upon passage as approved through Feb. 8, 2021).
[140] Brashier, *supra* note 15, at 245.
[141] Brashier, *supra* note 18, at 188-89.
[142] HERTZ & NELSON, *supra* note 1, at 217-18.
[143] Brashier, *supra* note 18, at 186-87.
[144] NeJaime, *supra* note 33, at 1187.
[145] *See* Hertz et al., *supra* note 6, at 274.
[146] Brashier, *supra* note 18, at 190-91.
[147] Hertz et al., *supra* note 6, at 274.
[148] HERTZ & NELSON, *supra* note 1, at 129-31.
[149] Restatement (Third) of Property (Wills & Don. Trans.) § 14.8 (2011).
[150] Susan Gary, We are Family: The Definition of Parent and Child for Succession Purposes, 34 ACTEC J. 171, 179 (2008).
[151] 20 PA. STAT. AND CONS. STAT. ANN. § 2108 (West, Westlaw through 2021 Regular Session Act 9).
[152] *Id.*
[153] Brashier, *supra* note 15, at 233-34
[154] HERTZ & NELSON, *supra* note 1, at 1.
[155] *See id.* at 11.