

TITLE 39  
HEALTH AND SAFETY

CHAPTER 54  
ARTIFICIAL INSEMINATION

39-5401. DEFINITIONS. As used in this act:

(1) "Artificial insemination" means introduction of semen of a donor as defined herein, into a woman's vagina, cervical canal or uterus through the use of instruments or other artificial means.

(2) "Donor" refers to a man who is not the husband of the woman upon whom the artificial insemination is performed.

[39-5401, added 1982, ch. 349, sec. 1, p. 864.]

39-5402. PERFORMED ONLY BY PHYSICIAN. Only physicians licensed under chapter 18, title 54, Idaho Code, and persons under their supervision may select artificial insemination donors and perform artificial insemination.

[39-5402, added 1982, ch. 349, sec. 2, p. 864.]

39-5403. CONSENT -- FILING AND NOTICE REQUIREMENTS. (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and the prior written request and consent of her husband.

(2) Whenever a child is born who may have been conceived by artificial insemination, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the state registrar of vital statistics. The state board of health and welfare shall have the authority to promulgate rules and regulations and to prescribe methods and forms of reporting, and fees to carry out the provisions of this act. Storage, retrieval and confidentiality of records shall be governed by chapter 1, title 74, Idaho Code.

(3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction, except that pursuant to chapter 1, title 74, Idaho Code, data contained in such records may be used for research and statistical purposes.

(4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the artificial insemination, it is the duty of the mother and her husband to give that physician notice of the child's birth. The physician who performs the artificial insemination shall not be liable for noncompliance with subsection (2) of this section if the noncompliance is a result of the failure of the mother and her husband to notify the physician of the birth.

[39-5403, added 1982, ch. 349, sec. 3, p. 864; am. 1990, ch. 213, sec. 48, p. 519; am. 2015, ch. 141, sec. 96, p. 448.]

39-5404. RESTRICTIONS ON SEMEN DONATIONS. No semen shall be donated for use in artificial insemination by any person who:

(1) Has any disease or defect known by him to be transmissible by genes;  
or

(2) Knows or has reason to know he has a venereal disease.

[39-5404, added 1982, ch. 349, sec. 4, p. 865.]

39-5405. RIGHTS OF DONOR, CHILD, HUSBAND. (1) The donor shall have no right, obligation or interest with respect to a child born as a result of the artificial insemination.

(2) A child born as a result of the artificial insemination shall have no right, obligation or interest with respect to such donor.

(3) The relationship, rights and obligation between a child born as a result of artificial insemination and the mother's husband shall be the same for all legal intents and purposes as if the child had been naturally and legitimately conceived by the mother and the mother's husband, if the husband consented to the performance of artificial insemination.

[39-5405, added 1982, ch. 349, sec. 5, p. 865.]

39-5406. APPLICATION OF ACT. Except as may be otherwise provided by a judicial decree entered in any action filed before the effective date of this act, the provisions of this act apply to all persons conceived as a result of artificial insemination as defined herein.

[39-5406, added 1982, ch. 349, sec. 6, p. 865.]

39-5407. PENALTY. A person who violates the provisions of sections 2 [39-5402], 3 [39-5403] or 4 [39-5404] of this act is guilty of a misdemeanor.

[39-5407, added 1982, ch. 349, sec. 7, p. 865.]

39-5408. HTLV-III ANTIBODY. Every hospital, bank or other storage facility where a person has donated semen shall use all reasonable means to detect if the donor has an antibody to HTLV-III in his blood. In the event that an antibody to HTLV-III is detected, such semen shall not be used for any purposes of artificial insemination.

As used in this section, "HTLV-III" means the human T-cell lymphotropic virus type III that causes acquired immunodeficiency syndrome.

[39-5408, added 1986, ch. 111, sec. 1, p. 304.]