

# The "gayby" boom: Dykes with tykes

## LEGAL BRIEFS

By Elizabeth F. Schwartz

In our big debut last time, we explored the general field of legal issues facing lesbians today. Now it's time to dig in! Let's start by taking a close look at the "gayby" boom currently taking the lesbian nation by storm. Myriad questions surround how, when and with whom to have babies. As an increasing number of courageous lesbians decide to take the challenge, we're learning creative ways to protect ourselves, our children, and, in the case of co-parents, our lovers.

### Known vs. unknown donor

Perhaps the most commonly asked question by lesbians wishing to bear children is whose sperm to use. Many lesbians prefer to use a friend and the trusty turkey baster, but still others use the ever-popular sperm bank.

The question of whether one should go with a "known" or an "unknown" sperm donor is one of the few things most legal authorities can agree upon (remember the joke about having five lawyers in a room and getting six opinions).

### Pros of using an unknown donor

Most everyone who has dealt with this issue agrees as to the preferability of using an unknown sperm donor. The advantages of going with an unknown donor are several.

First, and most important, no one else has a parental right to your baby but you. Plenty can go wrong that you never dreamed of even



with that old friend who you trust implicitly, especially when that little baby face shows up and starts stealing hearts.

Sperm banks are a most effective way to be sure that the insperminator will not be able to claim parental rights to your child.

Those who use known donors should think seriously about drafting a *sperm donor agreement*, a topic we'll cover in our next column. These agreements are a great asset and a *must* if you decide to turkey baster it with a fabulous gayboy friend, but it's uncertain whether a court will enforce such an agreement given the general reluctance to relinquish parental rights. Still, as we'll learn, it's better than nothing and may help avoid a dispute in the

first place.

Another advantage of using a sperm bank is that you typically find out much more about the physical health and genes of the potential donor. This might seem ironic to some whose main reason for wanting to go with a known donor might be the ability to directly ask countless questions about health and family history.

A Miami gynecologist who has helped many lesbians have babies tells us that the profile sperm banks get on donors is much more exhaustive than one might imagine. She says that even the most thorough lesbian would not think to ask some of the questions these clinic folks do. In fact, most clinics will throw out the application of any guy whose profile looks a little too perfect, owing to the statistical impossibility of anyone being so flawless. So the screening is darn good. A caveat: these tests reveal almost everything except mental illness, because of the difficulty in testing for them.

### Cons of using an unknown donor

Speaking of warnings, we should also look at the disadvantages of conceiving with a frozen dad.

First, it takes much longer to get pregnant using this method than using the unfrozen, "natural" method (try explaining to Pat Buchanan that a turkey baster is actually natural).

In fact, it takes an average of six times of using frozen sperm purchased through a clinic to get pregnant. Which leads us to the next

downside: it's much more expensive to use sperm banks. The sperm itself can get pricey and the associated clinic fees really add up.

Another interesting "con" that a client mentioned is that she doesn't want anyone else to have the same dad as her child. While this is a valid concern, it should be noted that most reputable clinics will keep track of how many times a particular donor's sperm is sold in a given area and, most importantly, how many women have reported that the conception was a success.

Once ten such reports are received, the clinic will stop accepting donations from that man.

### Conclusion

So, this choice is a difficult one, and the answers will be different for each of you depending on your unique circumstances. Be sure to discuss your options both with your health care provider and legal counsel before getting pregnant.

In the next column we'll explore what a *sperm donor agreement* should include for those who decide to use a known donor. Potential donors should also tune in because we'll learn about how you can protect yourselves from claims for child support.

So please check us out. Until then, feel free to e-mail me at [eschwartz@sobelaw.com](mailto:eschwartz@sobelaw.com) with any comments or suggestions for future topics you'd like to read about.