

Proponent Testimony
House Bill 64
Kevin Martin

Chairman LaRe, Vice-Chair Swearingen and ranking member Leland, my name is Kevin Martin. I am a journalist and reside in Lorain, Ohio.

I am here today to offer my testimony in support of HB 64, legislation sponsored by Representative Jena Powell that will bring much needed criminal penalties for fertility fraud.

I stand here today not only as a proud Ohioan, but first and foremost as a donor conceived person. I am among millions of people around the world who have, through no fault of their own, been denied significant information about their personal history. Fertility fraud is just one of many examples of the continual failures of the fertility industry to provide even the most basic protections for the people they are helping create.

With the significance of this legislative proposal for the donor conceived community, it was of the utmost importance that I be here in person to share my story and why I believe you should vote in favor of this bill.

I was born in London, Ontario Canada in 1986 with the help of an anonymous sperm donor from the fertility clinic associated with University Hospital London, now known as the London Health Sciences Centre.

My mother was told my biological father was a medical resident with a perfect health history. At the age six I moved to Cleveland Heights, Ohio after my mother married my dad who raised me, and would eventually adopt me. It was at this time around the age of seven that I was first told the truth of my origins.

I have been speaking publicly about my experience as a donor conceived person since 2009 when I took my first commercial DNA test, and in February, 2018 at the age of 31 I identified my biological father through DNA testing.

Sadly, I discovered my biological father had passed away three years earlier at the age of 56 and I grieve the loss of that relationship every day. After spending the greater portion of my life actively searching for him, the first photo I ever saw of him was in his obituary.

It is a loss perpetrated by the fertility industry who have continually denied donor conceived people the right to the truth of their origins.

Despite my parent's going against the advice given to them by the fertility industry to lie to me about the truth of my origins by telling me the truth, I have experienced a deep loss of my identity as a result of being donor conceived and I have lived most of my life without an accurate medical history.

I have no idea how many half siblings I have and I live daily with the fear I will never be able to find them.

Fertility fraud, the act of misusing genetic material to create a viable embryo, is one of the cruelest and most heinous violations one could imagine.

The classic example is a fertility doctor that uses his sperm to fertilize the egg of one of his patients, despite the patient having only consented to use the sperm of another donor.

We put our trust in medical professionals to put our best interests at the forefront and when that trust is violated in this manner these individuals should be held accountable. However, as I stand here today, fertility fraud is not illegal under Ohio civil or criminal statutes. For the victims of fertility fraud the

discovery of the nature of their conception does lifelong damage in addition to the parents who have had to live with the pain of this violation.

The states of Indiana, Texas, Florida, and Colorado have passed legislation to address these gaps in the law. I implore this committee to be on the right side of history and add Ohio to this list in bringing justice for victims of fertility fraud.

On November, 19 2019 for the first time ever, the United Nations invited a delegation of donor conceived and surrogacy individuals to hear testimony on their lived experiences in which they called for “urgent national and international measures” with the meaningful engagement of donor conceived and surrogacy conceived individuals.

In honoring the legacy of the 30th anniversary of the UN Convention on the Rights of the Child, the delegation known as the UN Working Group on Biotechnology crafted a set of progressive international principles setting forth recommendations for governments on minimum standards on fertility industry practices.

I feel strongly that when the UN Working Group on Biotechnology took our case to the world, they represented all donor and surrogacy conceived people. I would like the record to reflect their moving testimony as we try to bring in much needed changes in the state of Ohio for the victims of fertility fraud.

“The Principles are based on the recognition that regardless of the type of assisted reproduction used, all donor-conceived people and people born of surrogacy have a fundamental human right to their full and true identity, a right to preserve relations with their families, and a right not to be bought or sold as enshrined in the UNCRC and other international instruments.”

I ask you to consider the words of my friend Albert Frantz, an American donor conceived person living in Austria originally from Pennsylvania in recognizing the right to identity as a fundamental human right.

“I was never supposed to know my own identity or half of my immediate family. This is a grave injustice and a direct violation of Articles 7 and 8 of the UN Convention on the Rights of the Child. It is high time to honor the Convention, to eliminate all layers of secrecy and shame—to ‘open source’ identity. It is my sincere hope that future children of reproductive technology will be entitled to know their full families throughout their lives, and that both social and biological parents will be fully recognized as this is the only way to fully honor both nurture and nature. Identity should not literally be a corporate or state secret. It must be considered a fundamental human right.”

While I applaud Representative Powell’s efforts in bringing this important piece of legislation forward, I strongly encourage you to consider the following amendments that I believe will make this bill even stronger in deterring physicians from engaging in fertility fraud and supporting the victims:

- Fertility fraud should be considered a first or second degree felony which would include the presumption of jail time.
- The statute of limitations for criminal complaints should be enhanced so it would be five years after the discovery of the crime. Given that a vast number of donor conceived people that were lied to about the truth of their origins, a 10 year statute of limitations would leave those who discovered the truth in adulthood with no criminal legal recourse. Additionally, patients who use donor sperm are often contractually required to wait a minimum of 18 years before doing any kind of DNA testing, so the 10 year statute of limitations in the bill is basically rendered moot. I have

attached supplementary documentation in support of this amendment in *Teuscher v. CCB-NWB*

Mr. Chairman, we all know individuals who struggle with fertility issues and have sought various interventions. I have deep compassion for my parent's and for all people who simply want to experience the pure joy of becoming parents. It is not hard to envision just how widely these issues impact our fellow Ohioans.

In saying this, I ask you to extend these feelings of compassion to donor conceived people and the victims of fertility fraud who simply want justice and the right to the truth.

I ask you to honor the legacy of the UN Convention on the Rights of the Child and the individuals who have bravely shared their stories in amending and passing HB 64.

Thank you for receiving my testimony. I will do my best to answer any questions the committee may have.