



Faculty Lunches with the Dean (No. 38) (Cheryl Howell)

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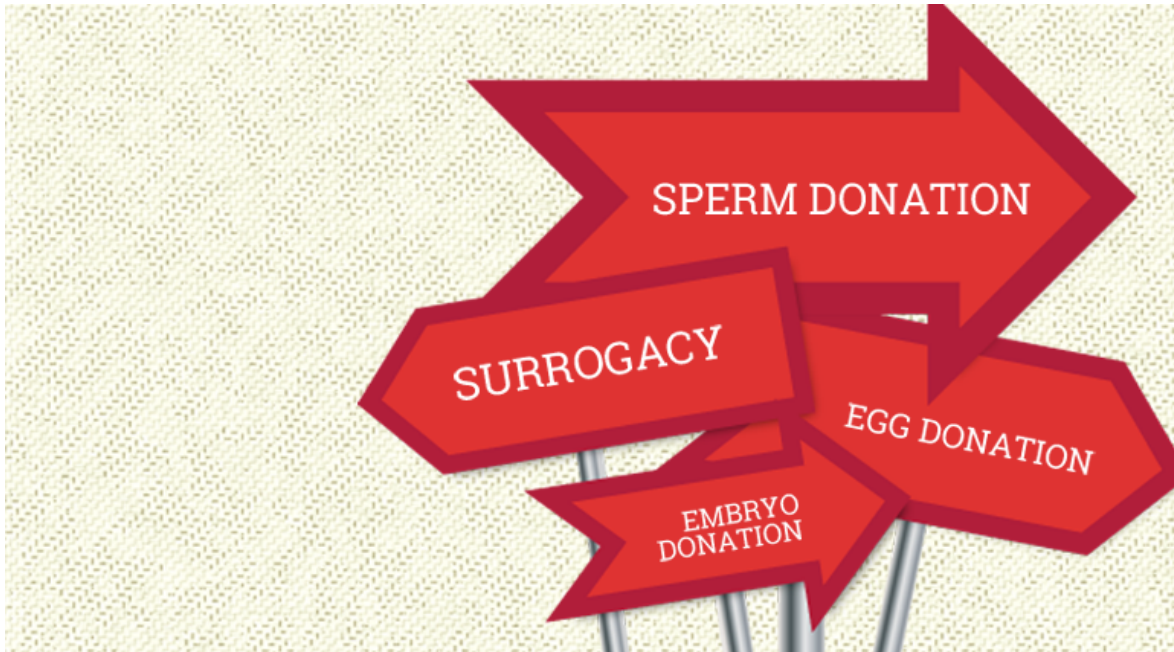


The last session of Faculty Lunches with the Dean included Bill Rivenbark, Cheryl Howell, Maureen Berner, and John Stephens. This post summarizes the fascinating work that Cheryl described around clarifying and modernizing the state's law concerning parentage, meaning the law defining when a person is a child's legal parent.

Cheryl is working with a committee of the North Carolina Bar Association on a set of issues that



public policy makers have been slow to address for many years. North Carolina law generally assumes that old-fashioned genetics and traditional reproductive biology determine a child's legal parent. That assumption no longer holds in a growing number of cases. Society has fundamentally changed how it defines "family," and that has raised many legal questions not answered by old-school biology. In addition, the ever-increasing use of assisted reproductive medical technology has created lots of legal challenges not addressed by our current law.



Consider a case where a woman gives birth to a child created using the genetic material from as many as three different individuals. It is a new world. Unless the person adopts a child, North Carolina law generally denies parental rights to any person who is not a traditional biological parent. This legal perspective is not helpful, for example, when a same-sex couple raises a child together from birth, both acting as parents and both forming strong bonds with the child, but the law only recognizes one of them as the child's biological parent.

How do judges find outcomes that are legally correct and at the same time compassionate and respectful of nontraditional family structures. Judges and other court officials have been struggling for years to address these and other situations that arise regularly in court proceedings. Cheryl first confronted this issue 25 years ago during her first month at the Institute of Government. She was called by a judge who was trying to determine whether to recognize and enforce a surrogacy contract. Just a couple of weeks ago, she spend a very long time on the phone with a new judge who was struggling with the exact same question. The name of the surrogate mother will be entered on the birth certificate in the absence of a court order to the contrary, and the law assumes



that the sperm donor is the father. North Carolina law is no clearer today than it was 25 years ago.



There is a national organization called the Uniform Law Commission, which recommends model laws in a number of areas, and it has created something called the Uniform Parentage Act (UPA) to encourage states to expand and reform their parentage laws to better reflect modern society. Cheryl says many consider the UPA radical because it shifts the law's focus. In assigning parental rights it moves away from traditional biology and focuses on the intentions of the people who decide to create a child, along with considering the individual child's best interests.

The committee that Cheryl is working with has been charged with reviewing the UPA and recommending whether the bar association should support its adoption in North Carolina. Adopting all or a part of the UPA would be a significant shift in North Carolina's law, and it likely will not happen easily or quickly given the strong emotions and conflicting values swirling around these issues. Regardless of the difficulty, people in the court system continue to face challenging issues and they need guidance in resolving problems involving children and families.

Cheryl is the ideal person to provide thoughtful help that is consistent with the School's tradition of political neutrality and non-advocacy on policy outcomes. I have no doubt that her expertise will be trusted by everyone involved with the committee, and I'm happy that she is representing the School on such important issues.

