



## How a Passion for Helping Modern Families Advanced the 2019 Model ART Act

It's amazing what a little passion can help you accomplish. I recently had the privilege of seeing our ABA Family Law Section Assisted Reproductive Technology (ART) Committee working to secure the passage of ABA Resolution 111 at the Midyear Meeting in Las Vegas. Richard Vaughn (California), former chair of the Committee, spoke eloquently in support of the resolution from the well of the ABA House of Delegates. He cited his passion for his work in the field of ART and described how ART had helped to create his very own family.

The passage of Resolution 111 signaled the adoption of the 2019 ABA Model Act Governing Assisted Reproduction ("the 2019 Model ART Act"), which is replacing the 2008 Act, also authored by the ABA ART Committee. The resolution adopts the new Act as appropriate for those states desiring to adopt legislation on this topic. It is the prime example of best practices and requirements for the safety of all participants in an assisted reproduction arrangement, creates predictability for the participants and the attorneys who assist them, and echoes the realities of current ART parentage practices while also protecting the integrity of the intended parent doctrine. The new Act seeks to recognize the social, legal, and medical advancements in the area of ART that have evolved since 2008. For example, the Act: makes the language neutral as to gender and sexual orientation to ensure equal treatment of those children born through assisted reproduction to same-sex couples; adjusts the wording so that it is consistent with the Uniform Parentage Act of 2017; and addresses the issue of resulting children's right to access information about their gamete (sperm or egg) donor. The Act contains eleven articles covering topics such as informed consent, mental health evaluations and counseling, privacy and confidentiality, embryo transfer and disposition, surrogacy, payments, enforcement, and more.

It's been a long road for Richard Vaughn and the rest of his Committee. ABA resolutions are vetted by many other entities, both within the ABA and outside. Those entities may voice their own concerns and proposed changes, sometimes

only days before the vote. In this instance, ABA Resolution 111 had been submitted at both the 2018 Midyear and Annual Meetings but was subsequently withdrawn to address further comments by interested sections of the ABA and entities outside the ABA. I personally witnessed the countless hours that Rich and his Committee put into the passage of this resolution, and I know that all can be confident that the result is a well-thought-out piece of legislation that we should all take to our states for consideration. The Committee collaborated with all of the following entities on this project: the ABA Section of Science and Technology and ABA Commission on Sexual Orientation and Gender Identity (both cosponsors); the ABA Sections of Health Law and Real Property, Trusts and Estates; the National Center for Lesbian Rights; the National LGBT Bar Association; and the Uniform Law Commission.

In my home state of Indiana, we still operate under a 1997 statute that declares that it is against public policy to enforce any term of a surrogacy agreement. I am happy to report, however, that as of the writing of this column, more modern legislation is being considered, and it includes language from the 2019 Model ART Act.

I have found the members of our ART Committee to be some of the most passionate lawyers I have had the pleasure to associate myself with. While the practice of ART law is certainly not for everyone, watching Richard Vaughn speak to the entire ABA House of Delegates on a topic so clearly close to his heart reminded me of what finding your passion can do to help you find both personal and professional success and to affect the lives of countless others in a most profound way. **FA**

**Melissa J. Avery** ([mavery@bkrlaw.com](mailto:mavery@bkrlaw.com)) is chair of the ABA Section of Family Law. She is of counsel to Broyles Kight & Ricafort, PC, in Indianapolis, Indiana, where she focuses her practice on a wide range of family law matters. She is a fellow of the ABA and of the American and International Academy of Family Lawyers, an Indiana Family Law Board–certified family law specialist, and a registered domestic relations mediator.