

Senate Bill 596

By: Senators Shafer of the 48th, Cagle of the 49th, Carter of the 13th, Kemp of the 46th, Whitehead, Sr. of the 24th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide a short title; to provide legislative intent and findings; to provide definitions; to
3 create the Newborn Umbilical Cord Blood Bank for postnatal tissue and fluid; to provide for
4 donations and information concerning donations; to provide for certain procedures and costs
5 and fees associated with such bank; to provide for the creation of the Georgia Commission
6 for the Newborn Umbilical Cord Blood Initiative and the membership, appointment, terms
7 of office, and duties of such commission; to provide for certain funding mechanisms; to
8 prohibit human cloning; to provide for civil and criminal penalties; to provide for related
9 matters; to amend Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia
10 Annotated, relating to income tax returns and information, so as to authorize taxpayers to
11 make certain contributions through the income tax payment and refund process; to provide
12 an effective date and for applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Delivering the Cure: Newborn Umbilical
16 Cord Blood Initiative Act."

17 **SECTION 2.**

18 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
19 a new Chapter 46 to read as follows:

20 "CHAPTER 46

21 31-46-1.

22 The General Assembly finds and declares that:

- 1 (1) Over 100 million Americans and two billion other humans worldwide suffer from
- 2 diseases that may eventually be treated more effectively or even cured with stem cells;
- 3 (2) Stem cell research has been hampered by the controversy over embryonic stem cells;
- 4 (3) Stem cells are not found only in embryos;
- 5 (4) The umbilical cord, placenta, and amniotic fluid are rich in stem cells which may be
- 6 used for scientific research and medical research without destroying embryos;
- 7 (5) Stem cell research using stem cells from postnatal tissue and fluid has already
- 8 resulted in treatments for anemia, leukemia, lymphoma, lupus, multiple sclerosis,
- 9 rheumatoid arthritis, spinal cord injury, and Crohn's disease;
- 10 (6) Stem cell therapies using stem cells from postnatal tissue and fluid are being studied
- 11 for diseases as wide-ranging and diverse as corneal degeneration, heart disease, stroke,
- 12 Parkinson's disease, and Alzheimer's disease;
- 13 (7) It shall be the public policy of this state to encourage the donation, collection, and
- 14 storage of stem cells collected from postnatal tissue and fluid and to make such stem cells
- 15 available for both scientific research and medical treatment. It shall be the public policy
- 16 of this state to encourage ethical research in life science and regenerative medicine; and
- 17 (8) It shall be against the public policy of this state to perform human cloning for either
- 18 reproductive or research purposes.

19 31-46-2.

20 As used in this chapter, the term:

- 21 (1) 'Amniotic fluid' means the fluid inside the amnion.
- 22 (2) 'Asexual reproduction' means reproduction not initiated by the union of oocyte and
- 23 sperm.
- 24 (3) 'Embryo' means a living organism of the species homo sapiens from the single-celled
- 25 stage to eight weeks' development.
- 26 (4) 'Fetus' means a living organism of the species homo sapiens from eight weeks'
- 27 development until complete expulsion or extraction from a woman's body or until
- 28 removal from an artificial womb or other similar environment designed to nurture the
- 29 development of such organism.
- 30 (5) 'Human cloning' means human asexual reproduction accomplished by introducing
- 31 nuclear material from one or more human somatic cells into a fertilized or unfertilized
- 32 oocyte whose nuclear material has been removed or inactivated so as to produce a living
- 33 organism at any stage of development that is genetically virtually identical to an existing
- 34 or previously existing human organism.
- 35 (6) 'Placenta' means the organ that forms on the inner wall of the human uterus during
- 36 pregnancy.

1 (7) 'Postnatal tissue and fluid' means the placenta, umbilical cord, and amniotic fluid
2 expelled or extracted in connection with the birth of a human being.

3 (8) 'Somatic cell' means a diploid cell having a complete set of chromosomes obtained
4 or derived from a living or deceased human body at any stage of development.

5 (9) 'Stem cells' means unspecialized or undifferentiated cells that can self-replicate and
6 have the potential to differentiate into specialized cell types.

7 (10) 'Umbilical cord' means the gelatinous tissue and blood vessels connecting an unborn
8 human being to the placenta.

9 31-46-3.

10 (a) Not later than June 30, 2007, the Georgia Commission for the Newborn Umbilical
11 Cord Blood Initiative, as created in Code Section 31-46-4, shall establish a postnatal tissue
12 and fluid bank in partnership with one or more of the public colleges or universities in this
13 state for the purpose of collecting and storing postnatal tissue and fluid. The bank, which
14 shall be known as the Newborn Umbilical Cord Blood Bank, shall make such tissue and
15 fluid available for scientific research and medical research in accordance with this chapter.
16 Any person giving birth to a child in Georgia may contribute postnatal tissue and fluid to
17 the Newborn Umbilical Cord Blood Bank.

18 (b) Beginning June 30, 2007, all physicians and hospitals in this state shall inform
19 pregnant patients no later than 30 days from the commencement of the patient's third
20 trimester of pregnancy of the opportunity to donate postnatal tissue and fluid to the
21 Newborn Umbilical Cord Blood Bank; provided, however, that this subsection shall not be
22 construed to require the participation of any physician who objects to the transfusion or
23 transplantation of blood on the basis of bona fide religious beliefs.

24 (c) Persons seeking postnatal tissue and fluid from the Newborn Umbilical Cord Blood
25 Bank for scientific research and medical treatment shall enter into an agreement with the
26 bank to offset the costs associated with the bank as well as the expenses incurred in the
27 collection and storage of the postnatal tissue and fluid.

28 (d) Nothing in this Code section shall be construed to prohibit a patient from donating to
29 a private blood and tissue bank.

30 (e) The public college or university designated to coordinate the Newborn Umbilical Cord
31 Blood Bank shall have an institutional review board which shall be available on an ongoing
32 basis to review the research procedures and conduct of any institution or researcher
33 desiring to conduct research with tissue and blood from the bank. The institutional review
34 board shall establish procedures to protect and ensure the privacy rights of postnatal tissue
35 and fluid donors.

1 (f) Persons receiving federal funds for stem cell research shall be eligible to apply to use
2 postnatal tissue and fluid from the bank. The institutional review board shall verify that
3 the federal government has authorized such research. Eligibility to apply to use postnatal
4 tissue and fluid for scientific research shall not be limited to persons receiving federal
5 funds for stem cell research.

6 31-46-4.

7 (a) There is created the Georgia Commission for the Newborn Umbilical Cord Blood
8 Initiative which shall consist of 15 members appointed as provided in this Code section.

9 (b) Seven members shall be appointed by the Governor, one of whom shall be a
10 representative of a public college, university, or medical school. The Governor shall
11 appoint four members to serve initial terms of three years and three members to serve
12 initial terms of two years. Thereafter, successors to such initial appointees shall serve
13 terms of three years. The Governor shall designate one of the persons so appointed to be
14 the chairperson of the commission. If the chief executive officer of the Georgia Research
15 Alliance is not appointed by the Governor or any other appointing authority to serve on the
16 commission, he or she shall serve as an advisory member.

17 (c) Four members shall be appointed by the Lieutenant Governor or, if the Lieutenant
18 Governor belongs to a political party other than the political party to which a majority of
19 the members of the Senate belong, by the Senate Committee on Assignments. Of these
20 four members, there shall be at least one of each of the following: a physician licensed to
21 practice medicine in this state; a recognized medical ethicist with an accredited degree in
22 medicine, medical ethics, or theology; a scientific researcher in stem cell research; and an
23 attorney with experience in public health or biotechnology law. The Lieutenant Governor
24 or Senate Committee on Assignments shall appoint two members to serve initial terms of
25 three years and two members to serve initial terms of two years. Thereafter, successors to
26 such initial appointees shall serve terms of three years.

27 (d) Four members shall be appointed by the Speaker of the House of Representatives. Of
28 these four members, there shall be at least one of each of the following: a physician
29 licensed to practice medicine in this state; a recognized medical ethicist with an accredited
30 degree in medicine, medical ethics, or theology; a scientific researcher in stem cell
31 research; and an attorney with experience in public health or biotechnology law. The
32 Speaker of the House of Representatives shall appoint two members to serve initial terms
33 of three years and two members to serve initial terms of two years. Thereafter, successors
34 to such initial appointees shall serve terms of three years.

35 (e) Members of the commission shall be eligible to succeed themselves. The initial terms
36 of office shall begin on July 1, 2006. Appointments shall be made by the respective

1 appointing authorities no later than June 15, 2006. Thereafter, appointments of successors
2 shall be made by the respective appointing authority no later than June 1 of the year in
3 which the member's term of office expires. Vacancies shall be filled for the unexpired
4 term by the respective appointing authority.

5 (f) The commission shall meet at least four times per year at the call of the chairperson or
6 upon the request of at least seven of its members.

7 (g) The commission shall have the following duties and responsibilities:

8 (1) To investigate the implementation of this chapter and to recommend any
9 improvements to the General Assembly;

10 (2) To make available to the public the records of all meetings of the commission and
11 of all business transacted by the commission;

12 (3) To oversee the operations of the Newborn Umbilical Cord Blood Bank established
13 in Code Section 31-46-3, including approving all fees established to cover administration,
14 collection, and storage costs;

15 (4) To undertake the Newborn Umbilical Cord Blood Initiative by promoting awareness
16 of the Newborn Umbilical Cord Blood Bank and encouraging donation of postnatal tissue
17 and fluid to the bank;

18 (5) To ensure the privacy of persons who donate umbilical cord blood and placental
19 tissue to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a) of Code
20 Section 31-46-3;

21 (6) To develop a plan for making postnatal tissue and fluid collected under the Newborn
22 Umbilical Cord Blood Initiative available for scientific research and medical treatment;

23 (7) To determine the intellectual property rights of the state and persons conducting
24 scientific research who use postnatal tissue and fluid from the bank;

25 (8) To employ such staff and contract with public colleges and universities and private
26 firms as necessary to fulfill its duties and responsibilities under this chapter subject to
27 funding by the General Assembly; and

28 (9) To report annually to the General Assembly in December of each year concerning
29 the activities of the commission with recommendations for any legislative changes or
30 funding necessary or desirable to fulfill the goals of this chapter.

31 (h) The commission shall provide for protection from disclosure of the identity of persons
32 making donations to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a)
33 of Code Section 31-46-3.

34 (i) The commission may request additional funding from any additional source including,
35 but not limited to, private grants.

1 (j) The commission may establish a separate not for profit organization or foundation for
 2 the purposes of supporting the Newborn Umbilical Cord Blood Bank established pursuant
 3 to Code Section 31-46-3.

4 31-46-5.

5 (a) It shall be unlawful for any person or entity, public or private, knowingly to:

6 (1) Perform or attempt to perform human cloning;

7 (2) Participate in an attempt to perform human cloning; or

8 (3) Ship or receive for any purpose an embryo produced by human cloning.

9 (b) Any person or entity that violates this Code section shall be guilty of a felony and,
 10 upon conviction, shall be sentenced to serve not less than one nor more than ten years'
 11 imprisonment or pay a fine in an amount not to exceed \$100,000.00, or both.

12 (c) Any person or entity that violates any provision of this Code section shall be subject
 13 to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty
 14 of not less than \$1 million and not more than an amount equal to the amount of the gross
 15 gain multiplied by two, if that amount is greater than \$1 million.

16 (d) Nothing in this Code section shall restrict areas of scientific research not specifically
 17 prohibited by this Code section, including research in the use of nuclear transfer or other
 18 cloning techniques to produce molecules, DNA, cells other than human embryos, tissues,
 19 organs, plants, or animals other than humans."

20 SECTION 3.

21 Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
 22 income tax returns and information, is amended by adding at its end a new Code Section
 23 48-7-63 to read as follows:

24 "48-7-63.

25 (a) Each Georgia income tax return form for taxable years beginning on or after January 1,
 26 2006, shall contain appropriate language, to be determined by the state revenue
 27 commissioner, offering the taxpayer the opportunity to contribute to nonembryonic stem
 28 cell research through the Georgia Commission for the Newborn Umbilical Cord Blood
 29 Initiative by donating either all or any part of any tax refund due, by authorizing a
 30 reduction in the refund check otherwise payable, or by contributing any amount over and
 31 above any amount of tax owed by adding that amount to the taxpayer's payment. The
 32 instructions accompanying the income tax return form shall contain a description of the
 33 purposes for which the commission was established and the intended use of moneys
 34 received from the contributions. Each taxpayer required to file a state income tax return

1 who desires to contribute to the commission may designate such contribution as provided
2 in this Code section on the appropriate income tax return form.

3 (b) The Department of Revenue shall determine annually the total amount so contributed
4 and shall transmit such amount to the Georgia Commission for the Newborn Umbilical
5 Cord Blood Initiative."

6 **SECTION 4.**

7 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
8 law without such approval.

9 (b) Section 3 of this Act shall apply to all taxable years beginning on and after January 1,
10 2006.

11 **SECTION 5.**

12 All laws and parts of laws in conflict with this Act are repealed.