

Senate Bill 169

By: Senators Hudgens of the 47th, Williams of the 19th, Rogers of the 21st, Thomas of the 54th, Shafer of the 48th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to the
2 parent and child relationship generally, so as to provide for a short title; to provide for
3 definitions; to provide that it shall be unlawful for any person or entity to intentionally or
4 knowingly create or attempt to create an in vitro human embryo by any means other than
5 fertilization of a human egg by a human sperm; to provide for standards for physicians and
6 facilities performing in vitro fertilizations; to provide for judicial standards; to provide for
7 related matters; to provide an effective date; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 This Act shall be known and may be cited as the "Ethical Treatment of Human Embryos
12 Act."

13 style="text-align:center">**SECTION 2.**

14 Chapter 7 of Title 19 of the Official Code of Georgia Annotated, related to the parent and
15 child relationship generally, is amended by adding a new article to read as follows:

16 style="text-align:center">"ARTICLE 4

17 19-7-60.

18 For purposes of this article, the term:

19 (1) 'Donor' means an individual from whose body gametes were obtained, or an
20 individual from whose body cells or tissues were obtained for the purpose of creating
21 gametes or human embryos, whether for valuable consideration or not.

22 (2) 'Gamete' means an egg (oocyte) or sperm.

23 (3) 'Human embryo' means an organism with a human or predominantly human genetic
24 constitution from the single-celled stage to approximately eight weeks development that
25 is derived by fertilization (in vitro or in utero), parthenogenesis, cloning (somatic cell
26 nuclear transfer), or any other means from one or more human gametes or human diploid
27 cells.

28 (4) 'In vitro' means outside the human body.

29 (5) 'In vitro fertilization' means the formation of a human embryo outside the human
30 body by union of human egg(s) with human sperm.

31 (6) 'In vitro human embryo' means a human embryo created outside the human body.

32 (7) 'Transfer' means the placement of a human embryo into the body of a woman.

33 (8) 'Valuable consideration' means financial gain or advantage, including cash, in-kind
34 payments, reimbursement for any costs incurred in connection with the removal,
35 processing, disposal, preservation, quality control, storage, transfer, or donation of
36 human gametes, including lost wages of the donor, as well as any other consideration.

37 19-7-61.

38 (a) It shall be unlawful for any person or entity to intentionally or knowingly create or
39 attempt to create an in vitro human embryo by any means other than fertilization of a
40 human egg by a human sperm.

41 (b) The creation of an in vitro human embryo shall be solely for the purpose of initiating
42 a human pregnancy by means of transfer to the uterus of a human female for the treatment
43 of human infertility. No person or entity shall intentionally or knowingly transfer or
44 attempt to transfer an embryo into a human uterus that is not the product of fertilization of
45 a human egg by a human sperm.

46 19-7-62.

47 No person or entity shall give or receive valuable consideration, offer to give or receive
48 valuable consideration, or advertise for the giving or receiving of valuable consideration
49 for the provision of gametes or in vitro human embryos. This Code section shall not apply
50 to regulate or prohibit the procurement of gametes for the treatment of infertility being
51 experienced by the patient from whom the gametes are being derived.

52 19-7-63.

53 The in vitro human embryo shall be given an identification by the facility for use within
54 the medical facility. Records shall be maintained that identify the donors associated with
55 the in vitro human embryo, and the confidentiality of such records shall be maintained as
56 required by law.

57 19-7-64.

58 (a) A living in vitro human embryo is a biological human being who is not the property
59 of any person or entity. The fertility physician and the medical facility that employs the
60 physician owe a high duty of care to the living in vitro human embryo. Any contractual
61 provision identifying the living in vitro embryo as the property of any party shall be null
62 and void. The in vitro human embryo shall not be intentionally destroyed for any purpose
63 by any person or entity or through the actions of such person or entity.

64 (b) An in vitro human embryo that fails to show any sign of life over a 36 hour period
65 outside a state of cryopreservation shall be considered no longer living.

66 19-7-65.

67 Only medical facilities meeting the standards of the American Society for Reproductive
68 Medicine and the American College of Obstetricians and Gynecologists shall cause the
69 fertilization of an in vitro human embryo. A person who engages in the creation of in vitro
70 human embryos shall be qualified as a medical doctor licensed to practice medicine in this
71 state and shall possess specialized training and skill in artificial reproductive technology
72 in conformity with the standards established by the American Society for Reproductive
73 Medicine or the American College of Obstetricians and Gynecologists.

74 19-7-66.

75 In the interest of reducing the risk of complications for both the mother and the transferred
76 in vitro human embryos, including the risk of preterm birth associated with higher-order
77 multiple gestations, a person or entity performing in vitro fertilization shall limit the
78 number of in vitro human embryos created in a single cycle to the number to be transferred
79 in that cycle in accord with Code Section 19-7-67.

80 19-7-67.

81 (a) Where a woman under age 40 is to receive treatment using her own eggs or embryos
82 created using her own eggs, whether fresh or previously cryopreserved, at the time of
83 transfer no person or entity shall transfer more than two embryos in any treatment cycle,
84 regardless of the procedure used.

85 (b) Where a woman age 40 or over is to receive treatment using her own eggs or embryos
86 created using her own eggs, whether fresh or previously cryopreserved, at the time of
87 transfer no person or entity shall transfer more than three embryos in any treatment cycle,
88 regardless of the procedure used.

89 (c) Where a woman is to receive treatment using donated eggs or adopted embryos, no
90 person or entity shall transfer more than two donated eggs or two adopted embryos in any

91 treatment cycle, regardless of the woman's age at the time of transfer and regardless of the
92 procedure used.

93 19-7-68.

94 In disputes arising between any parties regarding the in vitro human embryo, the judicial
95 standard for resolving such disputes shall be the best interest of the in vitro human embryo.

96 19-7-69.

97 All facilities providing assisted reproductive technologies shall, at least 24 hours prior to
98 obtaining a signed contract for services, provide patients with informed consent as required
99 by law and obtain a signed disclosure form before services commence. In addition to
100 medical risks and information on outcome and success rates, the informed consent
101 materials shall state in plain language the parental rights and duties of the donors, as well
102 as their legal rights and duties regarding the disposition of in vitro human embryos that
103 were not transferred due to either of the fertility patient's death, divorce, abandonment, or
104 dispute over the custody of the in vitro human embryo.

105 19-7-70.

106 Nothing in this article shall be construed to affect conduct relating to abortion as provided
107 in Chapter 12 of Title 16; provided, however, that nothing in this article shall be construed
108 or implied to recognize any independent right to abortion under the laws of this state.

109 19-7-71.

110 Notwithstanding any other provision of this article to the contrary, nothing in this article
111 shall be construed to create or recognize any independent right to engage in the practice of
112 in vitro fertilization or to create in vitro human embryos by any means.

113 19-7-72.

114 (a) Any person or entity that violates any provision of this article and derives a pecuniary
115 gain from such violation shall be fined not less than \$500.00 nor more than \$1,000.00.

116 (b) Any violation of this article shall constitute unprofessional conduct pursuant to Code
117 Section 43-34-37 and shall result in sanctions increasing in severity from censure to
118 temporary suspension of license to permanent revocation of license.

119 (c) Any violation of this article may be the basis for denying an application for, denying
120 an application for the renewal of, or revoking any license, permit, certificate, or any other
121 form of permission required to practice or engage in a trade, occupation, or profession.

122 (d) Any violation of this article by an individual in the employ and under the auspices of
123 a licensed health care facility to which the management of said facility consents, knows,
124 or should know may be the basis for denying an application for, denying an application for
125 the renewal of, temporarily suspending, or permanently revoking any operational license,
126 permit, certificate, or any other form of permission required to operate a medical or health
127 care facility."

128 **SECTION 3.**

129 This Act shall become effective upon its approval by the Governor or upon its becoming law
130 without such approval.

131 **SECTION 4.**

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