

Senate Bill 204

By: Senators Shafer of the 48th and Smith of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to
2 adoption, so as to provide a short title; to provide legislative findings; to provide definitions;
3 to provide an exclusive means of adopting human embryos; to provide for the relinquishment
4 of rights to such embryos; to provide for the status of prior agreements regarding such
5 embryos; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Snowflakes Adoption Act of 2009."

9 **SECTION 2.**

10 (a) The General Assembly finds that:

11 (1) There are thousands of cryopreserved or frozen human embryos in fertility clinics,
12 laboratories, and other facilities in the United States that were created for purposes of
13 reproduction, and that number grows annually;

14 (2) There is scant guidance from federal or state law concerning the status and care of and
15 rights to frozen embryos;

16 (3) This lack of clear guidance in federal or state law has resulted in numerous bitterly
17 contested lawsuits stemming from disputes over the status of and rights to frozen embryos,
18 including cases decided by the supreme courts of Massachusetts, New Jersey, New York,
19 Tennessee, and Washington;

20 (4) Embryo transfer is a haphazard process, with little consistency between fertility clinics
21 and lack of uniform agreements. The process provides insufficient protection for the best
22 interests of the child and insufficient certainty for the rights and responsibilities of genetic
23 and adoptive parents;

24 (5) The number of embryo transfers completed each year is unknown, and nearly all occur
25 without the oversight of established adoption laws and procedures;

26 (6) It is doubtful that embryo adoption will lead to the creation of even more frozen
27 embryos because of the medical burden and financial expense of conceiving them;

28 (7) Despite growing use of the term "embryo adoption," the term, in the absence of
29 legislative changes, may create a false sense of security for donors who believe that they
30 have legally terminated their parental rights and responsibilities when they transfer an
31 embryo to adoptive parents;

32 (8) Bringing embryo transfer within the auspices of adoption procedures will create greater
33 protection for the child, greater certainty for the termination of rights of the genetic parents,
34 and greater certainty for the parental rights of the adopting parents; and

35 (9) Whereas assisted reproductive technologies create the possibility that a child might
36 have no parents or more than two parents with sperm donors, egg donors, gestational
37 surrogates, and commissioning couples, applying adoption procedures to embryo donation
38 will help to ensure that a child does not have more than two legally recognized parents at
39 one time.

40 (b) The General Assembly's purpose in enacting this law is to:

- 41 (1) Clarify the rights of genetic and adoptive parents;
- 42 (2) Apply established procedures in adoption law to embryo adoption;
- 43 (3) Clarify the legal status of children placed for adoption as embryos; and
- 44 (4) Promote the best interests of the child.

45 **SECTION 2.**

46 Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, is
47 amended by adding a new Code section to read as follows:

48 "19-8-27.

49 (a) For the purposes of this Code section, the term:

50 (1) 'Embryo transfer' means the relinquishment of rights and responsibilities by the
51 genetic parent or parents of a human embryo and the acceptance of said rights and
52 responsibilities by an adopting parent or parents.

53 (2) 'Human embryo' or 'embryo' means an individual organism or fertilized ovum of the
54 human species, from the single-cell stage to eight-weeks development.

55 (b) For the purposes of this Code section and Code Section 19-8-1, the term 'child' shall
56 include a human embryo.

57 (c) The transfer of human embryos from genetic to adoptive parents shall be conducted
58 pursuant to the adoption laws of this state.

59 (d) Relinquishment of rights by genetic parents to a human embryo shall take place before
60 implantation.

61 (e) Written surrender of rights shall be obtained from the genetic mother and father, unless
62 the embryo was derived from donor gametes.

63 (f) A written surrender of rights to an embryo pursuant to subsection (e) of this Code
64 section shall cancel any prior written agreement governing disposition of such embryo."

65 **SECTION 3.**

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