

The House Committee on Judiciary Non-Civil offers the following substitute to HB 1038:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to assault and battery, so as to provide for the offense of reproductive battery; to  
3 provide for definitions; to provide for penalties; to provide that consent to an anonymous  
4 donor is not a defense; to provide for the tolling of statute of limitations; to provide for civil  
5 actions; to provide for revocation of license; to provide for related matters; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 assault and battery, is amended by adding a new Code section to read as follows:

11 "16-5-30.

12 (a) As used in this Code section, the term:

13 (1) 'Assisted reproduction' means a method of causing pregnancy through means other  
14 than by sexual intercourse, including, but not limited to:

15 (A) Intrauterine or intracervical insemination;

16 (B) Donation of eggs or sperm;

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- 17        (C) Donation of embryos;  
18        (D) In vitro fertilization and embryo transfer; and  
19        (E) Intracytoplasmic sperm injection.
- 20        (2) 'Donor' means a person who donates or provides human reproductive material,  
21        whether for personal use or compensation.
- 22        (3) 'Human reproductive material' means:
- 23            (A) A human spermatozoon or ovum; or  
24            (B) A human organism at any stage of development from fertilized ovum to embryo.
- 25        (4) 'Physician' means a physician licensed to practice medicine in this state.
- 26        (5) 'Recipient' means a person who receives human reproductive material from a donor.
- 27        (b) A physician commits the offense of reproductive battery if he or she intentionally  
28        transfers or implants for purposes of assisted reproduction into the body of a recipient  
29        human reproductive material from a donor, with actual knowledge that he or she is using  
30        human reproductive material from a donor for which the recipient has not provided  
31        consent.
- 32        (c)(1) Except as otherwise provided in paragraph (2) of this subsection, a physician who  
33        violates this Code section shall be guilty of a felony and shall be punished by  
34        imprisonment for not less than one year nor more than five years, a fine not to exceed  
35        \$5,000.00, or both.
- 36        (2) A physician who violates this Code section and who is the donor of the human  
37        reproductive material shall be guilty of a felony and shall be punished by imprisonment  
38        for not less than one year nor more than 15 years, a fine not to exceed \$10,000.00, or  
39        both.
- 40        (d) It shall not be a defense to the offense of reproductive battery that the recipient  
41        consented to an anonymous donor.

42 (e) Notwithstanding any other provision of law, the statute of limitations for a violation  
43 under this Code section shall not begin to run until the date on which the violation is  
44 discovered.

45 (f)(1) Any aggrieved person may institute a civil action against any person in a court of  
46 competent jurisdiction seeking relief from conduct constituting a violation of this Code  
47 section.

48 (2) In a proceeding under this subsection, injunctive relief shall be granted in conformity  
49 with the principles that govern the granting of relief from injury or threatened injury in  
50 other cases, but no showing of special or irreparable injury shall have to be made.  
51 Pending final determination of a proceeding under this subsection, a temporary  
52 restraining order or a preliminary injunction may be issued upon a showing of immediate  
53 danger of significant injury, including the possibility that any judgment for money  
54 damages would be difficult to execute, and, in a proceeding initiated by an aggrieved  
55 person, upon the execution of proper bond against injury for an injunction improvidently  
56 granted.

57 (3) Any person injured, directly or indirectly, by conduct constituting a violation of this  
58 Code section shall, in addition to any other relief, be authorized to recover compensatory  
59 and punitive damages, costs of litigation, and reasonable attorney's fees.

60 (g) The license of any physician who violates this Code section shall be subject to  
61 revocation by the Georgia Composite Medical Board pursuant to Chapter 34 of Title 43  
62 after notice and opportunity for hearing."

63 **SECTION 2.**

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