

HOUSE BILL No. 1203

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-46-5-3.

Synopsis: Qualified egg banks. Amends, for purposes of the law regarding unlawful transfer of a human organism, the definition of "qualified third party" and changes the term to "qualified egg bank". Specifies qualifications for a physician overseeing medical services related to ovum cryopreservation. Specifies requirements that must be met by a fertility clinic or similar medical facility in order to be considered a qualified egg bank. Exempts from the criminal offense of unlawful transfer of a human organism the payment to or receipt by a qualified egg bank of an amount for: (1) the retrieval of a human ovum; (2) the cryopreservation of a human ovum; (3) the transportation of a human ovum; or (4) other aspects of specified treatments or procedures to enhance human reproductive capability.

Effective: July 1, 2018.

Eberhart

January 9, 2018, read first time and referred to Committee on Public Health.



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1203

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-186.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 186.3. "Lethal fetal anomaly", for**
4 **purposes of IC 35-46-5-3, has the meaning set forth in**
5 **IC 35-46-5-3(a).**

6 SECTION 2. IC 35-31.5-2-235.5 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2018]: **Sec. 235.5. "Physician", for purposes**
9 **of IC 35-46-5-3, has the meaning set forth in IC 35-46-5-3(b).**

10 SECTION 3. IC 35-31.5-2-264.8 IS ADDED TO THE INDIANA
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2018]: **Sec. 264.8. "Qualified egg bank", for**
13 **purposes of IC 35-46-5-3, has the meaning set forth in**
14 **IC 35-46-5-3(c).**

15 SECTION 4. IC 35-46-5-3, AS AMENDED BY P.L.213-2016,
16 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2018]: Sec. 3. (a) As used in this section, "lethal fetal



1 anomaly" means a fetal condition diagnosed before birth that, if the
 2 pregnancy results in a live birth, will with reasonable certainty result
 3 in the death of the child not more than three (3) months after the child's
 4 birth.

5 **(b) As used in this section, "physician" means an individual**
 6 **who:**

7 **(1) is licensed to practice medicine in:**

8 **(A) Indiana under IC 25-22.5; or**

9 **(B) another state in the United States in which the**
 10 **individual is providing medical services;**

11 **(2) is board certified in obstetrics and gynecology; and**

12 **(3) oversees medical services related to ovum**
 13 **cryopreservation.**

14 ~~(b)~~ **(c) As used in this section, "qualified third party" egg bank"**
 15 **means:**

16 **(1) a fertility clinic or similar medical facility that:**

17 **(A) is located in the United States;**

18 ~~(+)~~ **(B) is accredited by an entity approved by:**

19 **(i) the medical licensing board, if the fertility clinic or**
 20 **facility is located in Indiana; or**

21 **(ii) the authorizing state agency or licensing board in the**
 22 **state in which the fertility clinic or facility is located;**

23 ~~(2)~~ **(C) is registered under 21 CFR 1271 with the United States**
 24 **Food and Drug Administration; and**

25 ~~(3)~~ **(D) is owned by, employs, a contracts with, or is**
 26 **affiliated with at least one (1) physician licensed under**
 27 ~~IC 25-22.5~~ **who performs medical services related to ovum**
 28 **cryopreservation at the fertility clinic or facility; or**

29 **(A) is board certified in obstetrics and gynecology; and**

30 ~~(B) performs oocyte cryopreservation at the facility.~~

31 **(2) an entity whose primary business purpose includes the**
 32 **facilitation of in vitro fertilization using cryopreserved ova**
 33 **and that is registered under 21 CFR 1271 with the United**
 34 **States Food and Drug Administration.**

35 ~~(c)~~ **(d) Except as provided in subsection (e), a person who**
 36 **knowingly or intentionally purchases or sells a human ovum, zygote,**
 37 **embryo, or fetus commits unlawful transfer of a human organism, a**
 38 **Level 5 felony.**

39 ~~(d)~~ **(e) This section does not apply to the following:**

40 **(1) The transfer payment to or receipt by either a woman donor**
 41 **of an ovum or a qualified third party of an amount for:**

42 **(A) earnings lost due to absence from employment;**



- 1 (B) travel expenses;
 2 (C) hospital expenses;
 3 (D) medical expenses; and
 4 (E) recovery time in an amount not to exceed four thousand
 5 dollars (\$4,000);
 6 concerning a treatment or procedure, **including ovum**
 7 **cryopreservation**, to enhance human reproductive capability
 8 through in vitro fertilization, gamete intrafallopian transfer, or
 9 zygote intrafallopian transfer.
 10 **(2) The payment to or receipt by a qualified egg bank of an**
 11 **amount for:**
 12 **(A) the retrieval of a human ovum;**
 13 **(B) the cryopreservation of a human ovum;**
 14 **(C) the transportation of a human ovum; or**
 15 **(D) any other aspect of performing or facilitating services**
 16 **related to a treatment or procedure to enhance human**
 17 **reproductive capability through in vitro fertilization.**
 18 (⊖) **(3) The following types of stem cell research:**
 19 (A) Adult stem cell.
 20 (B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long as
 21 the biological parent has given written consent for the use of
 22 the fetal stem cells.
 23 (⊖) **(4) The transfer or receipt of a fetus if:**
 24 (A) the fetus was diagnosed with a lethal fetal anomaly and
 25 written medical documentation verifies the diagnosis; and
 26 (B) a biological parent has requested, in writing, the transfer
 27 of the fetus for purposes of an autopsy.
 28 (⊖) **(f) Any person who recklessly, knowingly, or intentionally uses**
 29 **a human embryo created with an ovum provided to a qualified ~~third~~**
 30 **party egg bank under this section for purposes of embryonic stem cell**
 31 **research commits unlawful use of an embryo, a Level 5 felony.**

