



March 2, 2018

ENGROSSED HOUSE BILL No. 1203

DIGEST OF HB 1203 (Updated March 1, 2018 3:44 pm - DI 84)

Citations Affected: IC 35-31.5; IC 35-46.

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, Shackelford, Brown C, Frizzell

(SENATE SPONSORS — BECKER, BREAUX, MISHLER, CRIDER,
RANDOLPH LONNIE M)

January 9, 2018, read first time and referred to Committee on Public Health.
January 18, 2018, reported — Do Pass.
January 22, 2018, read second time, ordered engrossed. Engrossed.
January 23, 2018, read third time, passed. Yeas 88, nays 8.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Judiciary.
March 1, 2018, reported favorably — Do Pass.

EH 1203—LS 6990/DI 107



March 2, 2018

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.

ENGROSSED 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

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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.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1203, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1203 as introduced.)

KIRCHHOFER

Committee Vote: Yeas 10, Nays 2

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1203, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1203 as printed January 19, 2018.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 1

