

_____ offers the following
substitute to SB 169:

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 the right for entities not to participate
7 in healthcare services that violate conscience; to provide for judicial standards; to provide
8 for related matters; to provide an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

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

14 SECTION 2.

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

17 ARTICLE 4

18 19-7-60.

19 For purposes of this article, the term:

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

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

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

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

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

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

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

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

38 19-7-61.

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

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

47 19-7-62.

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

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53 19-7-63.

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

58 19-7-64.

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

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

67 19-7-65.

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

69 (1) 'Conscience' means religious, moral, or ethical principles.

70 (2) 'Health care service' means any phase of patient medical care, treatment, or
71 procedure, including, but not limited to, patient referral, counseling, therapy, testing,
72 diagnosis or prognosis, research, instruction, prescribing, dispensing, or administering
73 any device, drug, or medication, surgery, or any other care, treatment, or procedure.

74 (3) 'Participate' means to counsel, advise, provide, perform, assist in, refer for, admit for
75 purposes of providing, participate in providing, pay, contract for, or otherwise arrange for
76 the payment of, in whole or in part, any health care service or any form of such service.

77 (b) Any person, employer, or entity, whether public or private, has the right not to
78 participate in, and no person, employer, or entity, whether public or private, shall be
79 required to participate in any health care service that violates its conscience. No person,
80 employer, or entity, whether public or private, shall be held civilly or criminally liable,
81 discriminated against, dismissed, demoted, or in any way prejudiced or damaged because
82 of a refusal for any reason to participate in any health care service that violates its
83 conscience.

84 (c) Only medical facilities meeting the standards of the American Society for Reproductive
85 Medicine and the American College of Obstetricians and Gynecologists shall cause the
86 fertilization of an in vitro human embryo. A person who engages in the creation of in vitro
87 human embryos shall be qualified as a medical doctor licensed to practice medicine in this
88 state and shall possess specialized training and skill in artificial reproductive technology
89 in conformity with the standards established by the American Society for Reproductive
90 Medicine or the American College of Obstetricians and Gynecologists.

91 19-7-66.

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

97 19-7-67.

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

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

106 (c) Where a woman is to receive treatment using donated eggs or adopted embryos, no
107 person or entity shall transfer more than two donated eggs or two adopted embryos in any
108 treatment cycle, regardless of the woman's age at the time of transfer and regardless of the
109 procedure used.

110 19-7-68.

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

113 19-7-69.

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

122 ~~19-7-70.~~
123 ~~Nothing in this article shall be construed to affect conduct relating to abortion as provided~~
124 ~~in Chapter 12 of Title 16; provided, however, that nothing in this article shall be construed~~
125 ~~or implied to recognize any independent right to abortion under the laws of this state.~~

126 ~~19-7-71.~~
127 ~~Notwithstanding any other provision of this article to the contrary, nothing in this article~~
128 ~~shall be construed to create or recognize any independent right to engage in the practice of~~
129 ~~in vitro fertilization or to create in vitro human embryos by any means.~~

130 ~~19-7-72.~~
131 ~~(a) Any person or entity that violates any provision of this article and derives a pecuniary~~
132 ~~gain from such violation shall be fined not less than \$500.00 nor more than \$1,000.00.~~
133 ~~(b) Any violation of this article shall constitute unprofessional conduct pursuant to Code~~
134 ~~Section 43-34-37 and shall result in sanctions increasing in severity from censure to~~
135 ~~temporary suspension of license to permanent revocation of license.~~
136 ~~(c) Any violation of this article may be the basis for denying an application for, denying~~
137 ~~an application for the renewal of, or revoking any license, permit, certificate, or any other~~
138 ~~form of permission required to practice or engage in a trade, occupation, or profession.~~
139 ~~(d) Any violation of this article by an individual in the employ and under the auspices of~~
140 ~~a licensed health care facility to which the management of said facility consents, knows,~~
141 ~~or should know may be the basis for denying an application for, denying an application for~~
142 ~~the renewal of, temporarily suspending, or permanently revoking any operational license,~~
143 ~~permit, certificate, or any other form of permission required to operate a medical or health~~
144 ~~care facility."~~

145 SECTION 3.

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

148 SECTION 4.

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