

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVE Soper

1 Strike the Health and Human Services Committee Report, dated March
2 18, 2025, and substitute:

3 "Amend printed bill, strike everything below the enacting clause and
4 substitute:

5 **"SECTION 1. Legislative declaration.** (1) The general
6 assembly finds that:

7 (a) On February 16, 2024, the Alabama supreme court ruled that
8 embryos formed through in vitro fertilization, or IVF, are considered
9 children under the state's "Wrongful Death of a Minor Act";

10 (b) The ruling raised great concerns about the impact on access to
11 IVF in Alabama, but also raised questions about the potential impact a
12 ruling like this could have on people living or receiving treatment
13 elsewhere, including in Colorado;

14 (c) Given that Colorado law expressly states that an embryo is not
15 a legal person and that there is a fundamental right to fertility care under
16 Colorado law, a similar case to that in Alabama would not be successful
17 in Colorado; and

18 (d) Given the importance of access to fertility care for building
19 families and uncertainty that has arisen, however, there may be confusion
20 about the intent of Colorado law in the changing legal and political
21 landscape of reproductive care issues.

22 (2) (a) Colorado's "Donor-conceived Persons and Families of
23 Donor-conceived Persons Protection Act" went into effect on January 1,
24 2025; and

25 (b) Colorado's deadline for licensure is July 1, 2025, and several
26 gamete banks, clinics, and agencies have already submitted applications
27 for licensure, with several others stating that they plan to submit
28 applications.

29 (3) (a) Therefore, the general assembly declares that Colorado
30 should clarify and reaffirm that the fundamental right to fertility care
31 under current Colorado law includes access to IVF and other associated
32 services and treatments; and

33 (b) Colorado should ensure that Colorado's "Donor-conceived
34 Persons and Families of Donor-conceived Persons Protection Act"
35 appropriately balances the implementation of industry best practices with
36 continued access to industry services in Colorado.

37 **SECTION 2.** In Colorado Revised Statutes, 25-6-402, **add** (1.5)
38 as follows:

1 **25-6-402. Definitions.** As used in this part 4, unless the context
2 otherwise requires:

3 (1.5) "FERTILITY CARE" MEANS ANY TEST, PROCEDURE,
4 MEDICATION, SURGERY, OR SERVICE TO DIAGNOSE, ENHANCE, OR ASSIST
5 AN INDIVIDUAL'S ABILITY TO REPRODUCE OR ACHIEVE PREGNANCY,
6 INCLUDING, BUT NOT LIMITED TO:

- 7 (a) IN VITRO FERTILIZATION;
- 8 (b) INTRAUTERINE INSEMINATION;
- 9 (c) OVULATION INDUCTION;
- 10 (d) TESTICULAR OR OVARIAN BIOPSY;
- 11 (e) EMBRYO BIOPSY;
- 12 (f) CRYOPRESERVATION AND THAWING OF GAMETES AND
13 EMBRYOS;
- 14 (g) CRYOPRESERVATION OF TESTICULAR AND OVARIAN TISSUE;
15 AND
- 16 (h) PRE-IMPLANTATION GENETIC TESTING OR ANY OTHER MEDICAL
17 SCREENING OR EVALUATION OF EMBRYOS OR GAMETES.

18 **SECTION 3.** In Colorado Revised Statutes, 12-30-121, **add**
19 (1)(b.5) as follows:

20 **12-30-121. Legally protected health-care activity - prohibit**
21 **adverse action against regulated professionals and applicants -**
22 **definitions.** (1) As used in this section, unless the context otherwise
23 requires:

24 (b.5) "FERTILITY CARE" MEANS ANY TEST, PROCEDURE,
25 MEDICATION, SURGERY, OR SERVICE TO DIAGNOSE, ENHANCE, OR ASSIST
26 AN INDIVIDUAL'S ABILITY TO REPRODUCE OR ACHIEVE PREGNANCY,
27 INCLUDING, BUT NOT LIMITED TO:

- 28 (I) IN VITRO FERTILIZATION;
- 29 (II) INTRAUTERINE INSEMINATION;
- 30 (III) OVULATION INDUCTION;
- 31 (IV) TESTICULAR OR OVARIAN BIOPSY;
- 32 (V) EMBRYO BIOPSY;
- 33 (VI) CRYOPRESERVATION AND THAWING OF GAMETES AND
34 EMBRYOS;
- 35 (VII) CRYOPRESERVATION OF TESTICULAR AND OVARIAN TISSUE;
36 AND
- 37 (VIII) PRE-IMPLANTATION GENETIC TESTING OR ANY OTHER
38 MEDICAL SCREENING OR EVALUATION OF EMBRYOS OR GAMETES.

39 **SECTION 4.** In Colorado Revised Statutes, 25-57-104, **amend**
40 (1) as follows:

41 **25-57-104. Collection of identifying information and medical**
42 **history - applicability.** (1) Except as provided in subsection (3) of this
43 section, a gamete agency, gamete bank, or fertility clinic that collects

1 gametes from a donor or matches a donor with a recipient shall collect the
2 donor's identifying information and medical history and shall make a
3 good faith effort to maintain current contact information and updates on
4 the medical history of the donor by requesting updates from the donor at
5 least once every three years FOR A PERIOD OF AT LEAST TWENTY YEARS
6 AFTER THE DATE OF THE DONOR'S LAST DONATION.

7 **SECTION 5.** In Colorado Revised Statutes, 25-57-109, **amend**
8 (1)(a) as follows:

9 **25-57-109. Donor age limits - limits on number of families per**
10 **donor - limits on egg-retrieval cycles per ovum donor - rules -**
11 **applicability.** (1) (a) Except as provided in subsection (4) of this section,
12 a gamete agency, gamete bank, or fertility clinic shall make a good faith
13 effort to determine how many families are established with gametes
14 matched or provided by the gamete agency, gamete bank, or fertility
15 clinic from each donor. **by METHODS OF GOOD FAITH EFFORTS MAY**
16 **INCLUDE, BUT ARE NOT LIMITED TO,** conducting sufficient record-keeping,
17 requiring recipients, as a condition of receiving donor gametes, to provide
18 information on live births, and requesting information from recipients on
19 live births, and using industry best practices, including methods or
20 processes to account for the number or percentage of live births that are
21 likely not reported, such as the correlation between the number of units
22 of donor gametes sold or released and the resulting live births. A gamete
23 agency, gamete bank, or fertility clinic shall not match or provide gametes
24 from a donor to additional families once the gamete agency, gamete bank,
25 or fertility clinic has record of or should reasonably know that twenty-five
26 families have been established using a single donor's gametes in or
27 outside of Colorado, with no limit on the number of children conceived
28 by each of the families, unless the donor requests, and the gamete agency,
29 gamete bank, or fertility clinic agrees to, a lower limit on the number of
30 families. This limit does not include any children conceived by the donor
31 as a parent or children conceived with the donor's gametes when the
32 donor is known to the recipient parent or parents at the time of the
33 donation. This limit does not include donations of embryos from one
34 family to another family.

35 **SECTION 6.** In Colorado Revised Statutes, 25-57-110, **amend**
36 (2)(a) as follows:

37 **25-57-110. License required - application - inspection -**
38 **issuance, denial, suspension, or revocation - fees - civil penalties -**
39 **rules.** (2) (a) A gamete agency, gamete bank, or fertility clinic shall
40 submit an ~~annual~~ application and fee EVERY TWO YEARS for a license to
41 operate on the form and in the manner prescribed by the department.

42 **SECTION 7. Safety clause.** The general assembly finds,
43 determines, and declares that this act is necessary for the immediate

- 1 preservation of the public peace, health, or safety or for appropriations for
- 2 the support and maintenance of the departments of the state and state
- 3 institutions."."

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