

HOUSE BILL No. 5131

June 23, 2009, Introduced by Reps. LeBlanc, Meltzer, Meekhof, Mayes, Kowall, Hansen, Terry Brown, Sheltroun, Spade, Lahti, McDowell, Opsommer, Espinoza, Green, Horn, Crawford, Rogers, Elsenheimer, Tyler, DeShazor, Kurtz, Pearce, Agema, Marleau, Neumann, Dean, Proos, Pavlov, Haveman, Hildenbrand, Calley, Ball, Lund, Stamas, Lori, Walsh, Moss, Bolger, Booher, Caul, McMillin, Paul Scott, Rick Jones, Genetski and Amash and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
 "Public health code,"
 by amending sections 2685, 2690, 2691, and 2692 (MCL 333.2685,
 333.2690, 333.2691, and 333.2692) and by adding sections 2693 and
 2696.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2685. (1) ~~A—EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION~~
 2 **(3) AND SUBJECT TO SECTION 2693,** A person shall not use a live
 3 human embryo, fetus, or neonate for nontherapeutic research if, in
 4 the best judgment of the person conducting the research, based upon
 5 the available knowledge or information at the approximate time of
 6 the research, the research substantially jeopardizes the life or
 7 health of the embryo, fetus, or neonate. Nontherapeutic research
 8 shall not in any case be performed on an embryo or fetus known by

1 the person conducting the research to be the subject of a planned
2 abortion being performed for any purpose other than to protect the
3 life of the mother.

4 (2) For purposes of subsection (1) the embryo or fetus shall
5 be conclusively presumed not to be the subject of a planned
6 abortion if the mother signed a written statement at the time of
7 the research, that she was not planning an abortion.

8 (3) PURSUANT TO SECTION 27 OF ARTICLE I OF THE STATE
9 CONSTITUTION OF 1963, A PERSON SHALL NOT CONDUCT RESEARCH THAT
10 SUBSTANTIALLY JEOPARDIZES THE LIFE OR HEALTH OF A HUMAN EMBRYO
11 UNLESS ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

12 (A) THE RESEARCH IS PERMISSIBLE UNDER FEDERAL LAW AND
13 CONDUCTED PURSUANT TO THE REQUIREMENTS OF FEDERAL LAW.

14 (B) THE HUMAN EMBRYO WAS CREATED FOR FERTILITY TREATMENT
15 PURPOSES.

16 (C) THE HUMAN EMBRYO WAS IN EXCESS OF THE CLINICAL NEED OF OR
17 WAS NOT SUITABLE FOR IMPLANTATION IN THE INDIVIDUAL SEEKING THE
18 FERTILITY TREATMENT AND WOULD OTHERWISE BE DISCARDED.

19 (D) THE HUMAN EMBRYO WAS DONATED FOR RESEARCH WITH THE
20 VOLUNTARY AND WRITTEN INFORMED CONSENT BY THE INDIVIDUAL SEEKING
21 THE FERTILITY TREATMENT.

22 (E) THE HUMAN EMBRYO HAS NOT BEEN ALLOWED TO DEVELOP MORE THAN
23 14 DAYS AFTER CELL DIVISION BEGINS, NOT INCLUDING ANY TIME DURING
24 WHICH THE EMBRYO WAS FROZEN.

25 (F) THE RESEARCH INVOLVES ONLY THE EXTRACTION OR UTILIZATION
26 OF EMBRYONIC STEM CELLS FROM THE HUMAN EMBRYO.

27 (4) A PERSON WHO CONDUCTS RESEARCH ALLOWED UNDER SUBSECTION

1 (3) SHALL ANNUALLY FILE A REPORT AS REQUIRED UNDER SECTION 2696.

2 Sec. 2690. (1) A person shall not knowingly ~~sell, transfer,~~
3 distribute, or ~~give away~~ **DONATE** an embryo, fetus, or neonate for a
4 use ~~which~~ **THAT** is in violation of sections 2685 to 2689.

5 (2) A PERSON SHALL NOT, FOR VALUABLE CONSIDERATION, PURCHASE
6 OR SELL A HUMAN EMBRYO FOR STEM CELL RESEARCH OR STEM CELL
7 THERAPIES AND CURES AS ALLOWED UNDER SECTION 27 OF ARTICLE I OF THE
8 STATE CONSTITUTION OF 1963, OR FOR ANY OTHER PURPOSE.

9 Sec. 2691. A person who violates sections 2685 to 2690 **OR**
10 **SECTION 2693** is guilty of a felony ~~,~~ punishable by imprisonment for
11 not more than 5 years.

12 Sec. 2692. As used in sections 2685 to ~~2691,~~ "nontherapeutic
13 2696:

14 (A) "CREATED FOR FERTILITY TREATMENT PURPOSES" MEANS CREATED
15 FOR IMPLANTATION AND GESTATION IN A WOMAN'S UTERUS BY EITHER OF THE
16 FOLLOWING:

17 (i) IN VITRO FERTILIZATION.

18 (ii) THE INTENTIONAL DIVISION OF A HUMAN EMBRYO CREATED BY IN
19 VITRO FERTILIZATION.

20 (B) "HEALTH FACILITY OR AGENCY" MEANS THAT TERM AS DEFINED IN
21 SECTION 20106.

22 (C) "HUMAN EMBRYO" MEANS AN ORGANISM CONSISTING ENTIRELY OF
23 BIOLOGICAL COMPONENTS OF THE SPECIES HOMO SAPIENS CAPABLE OF
24 DIFFERENTIATION AND MATURATION, REGARDLESS OF THE MEANS OF
25 CREATION, INCLUDING, BUT NOT LIMITED TO, FERTILIZATION AND SOMATIC
26 CELL NUCLEAR TRANSFER, BEGINNING FROM THE SINGLE CELL STAGE THROUGH
27 THE SEVENTH WEEK OF DEVELOPMENT.

1 (D) "NONTHERAPEUTIC research" means scientific or laboratory
2 research, or other kind of experimentation or investigation not
3 designed to improve the health of the research subject.

4 (E) "NOT SUITABLE FOR IMPLANTATION" MEANS THE HUMAN EMBRYO
5 EXHIBITS PHYSIOLOGICAL CHARACTERISTICS THAT, IN THE BEST JUDGMENT
6 OF THE ATTENDING PHYSICIAN, MAKE SUCCESSFUL IMPLANTATION AND
7 GESTATION OF THE HUMAN EMBRYO LESS THAN 50% LIKELY.

8 (F) "PHYSICIAN" MEANS A PHYSICIAN LICENSED UNDER PART 170 OR
9 PART 175, OR AN INDIVIDUAL PERFORMING AN ACT, TASK, OR FUNCTION
10 UNDER THE DELEGATORY AUTHORITY OF THAT PHYSICIAN.

11 (G) "VALUABLE CONSIDERATION" MEANS THE PAYMENT OR PROVISION OF
12 ANYTHING OF VALUE, INCLUDING, BUT NOT LIMITED TO, CASH, GIFTS,
13 REDUCED FEES FOR SERVICES RENDERED, MEDICAL TREATMENT, OR PAYMENT
14 FOR EXPENSES OR ACCOMMODATIONS.

15 SEC. 2693. (1) A PERSON SHALL NOT CREATE OR ATTEMPT TO CREATE
16 A HUMAN EMBRYO FOR THE PURPOSE OF CONDUCTING NONTHERAPEUTIC
17 RESEARCH UPON THAT EMBRYO.

18 (2) A PERSON SHALL NOT CREATE OR ATTEMPT TO CREATE A HUMAN-
19 ANIMAL CHIMERIC EMBRYO CONSISTING OF BIOLOGICAL COMPONENTS FROM THE
20 SPECIES HOMO SAPIENS AND 1 OR MORE OTHER SPECIES WHERE THE EMBRYO
21 IS CAPABLE OF DIFFERENTIATING AND MATURING IN A MANNER
22 SUBSTANTIALLY SIMILAR TO THE EMBRYONIC MATURATION PROCESS OF EITHER
23 A HUMAN EMBRYO OR OF AN EMBRYO OF ANY OF THE OTHER SPECIES
24 CONSTITUTING THE CHIMERIC EMBRYO.

25 SEC. 2696. (1) A PERSON WHO CONDUCTS RESEARCH USING LIVE HUMAN
26 EMBRYOS AS PERMITTED UNDER SECTION 2685 SHALL ANNUALLY SUBMIT A
27 REPORT AS DESCRIBED IN SUBSECTION (2) ON FORMS PRESCRIBED AND

1 PROVIDED BY THE DEPARTMENT AND AT THE TIME AND IN THE MANNER
2 PRESCRIBED BY THE DEPARTMENT.

3 (2) A PERSON WHO CONDUCTS RESEARCH USING LIVE HUMAN EMBRYOS
4 SHALL COLLECT AND REPORT ONLY THE FOLLOWING INFORMATION TO THE
5 DEPARTMENT AS REQUIRED UNDER SUBSECTION (1):

6 (A) NAME OF THE COMPANY, CORPORATION, ACADEMIC INSTITUTION, OR
7 OTHER PERSON MANAGING OR OVERSEEING THE RESEARCH.

8 (B) NAME AND ADDRESS OF THE PHYSICIAN'S OFFICE OR HEALTH
9 FACILITY OR AGENCY FROM WHERE EMBRYOS WERE DONATED AND THE NUMBER
10 OF EMBRYOS ACQUIRED FROM EACH OFFICE OR FACILITY OR AGENCY.

11 (C) NUMBER OF EMBRYOS THAWED FOR USE IN RESEARCH.

12 (D) NUMBER OF EMBRYOS DISCARDED WITHOUT BEING UTILIZED FOR
13 RESEARCH.

14 (E) NUMBER OF EMBRYOS HELD IN STORAGE AT THE BEGINNING AND
15 ENDING OF THE REPORTING YEAR.

16 (3) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

17 (A) DEVELOP AND MAKE AVAILABLE IN PRINT AND ELECTRONIC FORMAT
18 A FORM FOR PERSONS TO UTILIZE IN FILING THE REPORT REQUIRED IN
19 SUBSECTION (1).

20 (B) MAKE AVAILABLE ANNUALLY IN AGGREGATE A STATISTICAL REPORT
21 SUMMARIZING THE INFORMATION SUBMITTED IN EACH INDIVIDUAL REPORT
22 REQUIRED BY THIS SECTION.

23 (C) DESTROY EACH REPORT REQUIRED BY THIS SECTION AND EACH COPY
24 OF THE REPORT AFTER RETAINING THE REPORT FOR 5 YEARS AFTER THE DATE
25 THE REPORT IS RECEIVED.

26 (4) A PERSON SUBMITTING A REPORT UNDER SUBSECTION (1) SHALL
27 NOT INCLUDE THE NAME, COMMON IDENTIFIERS SUCH AS SOCIAL SECURITY

1 NUMBER OR MOTOR VEHICLE OPERATOR'S LICENSE NUMBER, OR OTHER
2 INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT POSSIBLE TO IDENTIFY
3 IN ANY MANNER OR UNDER ANY CIRCUMSTANCES AN INDIVIDUAL WHO HAS
4 OBTAINED IN VITRO FERTILIZATION SERVICES AND WHO SUBSEQUENTLY
5 DONATED HUMAN EMBRYOS FOR RESEARCH PURPOSES. A STATE AGENCY SHALL
6 NOT COMPARE DATA IN AN ELECTRONIC OR OTHER INFORMATION SYSTEM FILE
7 WITH DATA IN ANY OTHER ELECTRONIC OR OTHER INFORMATION SYSTEM THAT
8 WOULD RESULT IN IDENTIFYING IN ANY MANNER OR UNDER ANY
9 CIRCUMSTANCES AN INDIVIDUAL WHO DONATED HUMAN EMBRYOS FOR RESEARCH.
10 A PERSON SHALL NOT MAINTAIN STATISTICAL INFORMATION THAT MAY REVEAL
11 THE IDENTITY OF AN INDIVIDUAL WHO HAS DONATED HUMAN EMBRYOS FOR
12 RESEARCH.

13 (5) THE REPORTS REQUIRED UNDER THIS SECTION ARE STATISTICAL
14 REPORTS TO BE USED ONLY FOR MEDICAL AND HEALTH PURPOSES AND SHALL
15 NOT BE INCORPORATED INTO THE PERMANENT OFFICIAL RECORDS OF THE
16 SYSTEM OF VITAL STATISTICS.

17 (6) A PERSON WHO VIOLATES THIS SECTION BY DISCLOSING
18 CONFIDENTIAL IDENTIFYING INFORMATION IS GUILTY OF A FELONY
19 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
20 NOT MORE THAN \$5,000.00, OR BOTH. A PERSON WHO VIOLATES THIS
21 SECTION BY FAILING TO FILE A REQUIRED REPORT IS RESPONSIBLE FOR A
22 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF
23 NOT LESS THAN \$5,000.00 PER VIOLATION.