

S-5036

1 Amend House File 2160, as passed by the House, as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. 714I.1 **Short title.**

5 This chapter shall be known and may be cited as the "*Fraud*  
6 *in Assisted Reproduction Act*".

7 Sec. 2. NEW SECTION. 714I.2 **Definitions.**

8 For purposes of this chapter, unless the context otherwise  
9 requires:

10 1. "*Assisted reproduction*" means a method of causing  
11 pregnancy other than sexual intercourse.

12 2. "*Donor*" means an individual who provides gametes  
13 intended for use in assisted reproduction, whether or not for  
14 consideration.

15 3. "*Gamete*" means a sperm, an egg, or any part of a sperm  
16 or an egg.

17 4. "*Health care professional*" means a person who is  
18 licensed, certified, or otherwise authorized or permitted by  
19 the law of this state to administer health care in the ordinary  
20 course of business or in the practice of a profession.

21 5. "*Health facility*" means a hospital, clinic, sperm bank,  
22 laboratory, or other health care institution involved in the  
23 assisted reproduction process.

24 6. "*Human reproductive material*" means a human gamete or a  
25 human organism at any stage of development from fertilized ovum  
26 to embryo.

27 7. "*Patient*" means a person who has received or is receiving  
28 health services from a health care professional.

29 8. "*Physician*" means an individual licensed under chapter  
30 148.

31 Sec. 3. NEW SECTION. 714I.3 **Prohibited practices and acts.**

32 1. A person shall not engage in a practice or act the  
33 person knows or reasonably should have known provides false  
34 information to a patient related to an assisted reproduction  
35 procedure or treatment including false information relating to

1 any of the following:

2     *a.* The human reproductive material used or provided for  
3 assisted reproduction.

4     *b.* The identity of a donor of human reproductive material  
5 used or provided for assisted reproduction including but not  
6 limited to the donor's name, birthdate, or address at the time  
7 of donation.

8     *c.* A donor's medical history including but not limited to an  
9 illness of the donor at the time of donation, any past illness  
10 of the donor, or the social, genetic, or family history of the  
11 donor.

12     2. A physician or a health facility shall not knowingly or  
13 intentionally do any of the following:

14     *a.* Use or provide a patient with human reproductive material  
15 for assisted reproduction other than that to which the patient  
16 expressly consented in writing.

17     *b.* Use or provide a patient with human reproductive material  
18 for assisted reproduction that is not provided with the donor's  
19 consent or in a manner or to an extent other than that to which  
20 the donor consented.

21     3. *a.* A person that violates subsection 1 is guilty of a  
22 class "D" felony, punishable by the applicable maximum years of  
23 confinement and maximum fine.

24     *b.* A physician or health facility that violates subsection  
25 2 is guilty of a class "C" felony, punishable by the applicable  
26 maximum years of confinement and maximum fine.

27     4. It is not a defense to a violation of this section that  
28 a patient expressly consented in writing to the use of human  
29 reproductive material from an anonymous donor.

30     5. A violation of this section by a physician, health care  
31 professional, or health facility is grounds for denial of an  
32 application for, denial of renewal of, or revocation of any  
33 license, permit, certification, or any other form of permission  
34 required to practice a profession or establish, conduct, or  
35 maintain a facility regulated by the state. A violation

1 of this section by a physician or health care professional  
2 constitutes unprofessional conduct.

3     Sec. 4. NEW SECTION. 714I.4 Private right of action —  
4 damages.

5     1. Any of the following persons may bring a cause of action  
6 for compensatory and punitive damages against any person that  
7 engaged in a prohibited practice or act in violation of this  
8 chapter:

9     *a.* The patient who conceives or conceives and gives birth to  
10 a child conceived through assisted reproduction in violation of  
11 this chapter.

12     *b.* The spouse of a patient at the time the patient utilized  
13 assisted reproduction services, if the patient conceives or  
14 conceives and gives birth to a child conceived through assisted  
15 reproduction in violation of this chapter.

16     *c.* A child born as the result of being conceived through  
17 assisted reproduction in violation of this chapter.

18     *d.* A donor whose human reproductive material resulted in  
19 the conception or conception and birth of a child conceived  
20 through assisted reproduction in violation of this chapter or  
21 whose human reproductive material was used without the donor's  
22 consent or in a manner or to an extent other than that to which  
23 the donor consented.

24     2. *a.* A patient or the spouse of a patient has a separate  
25 cause of action under this section for each conception or  
26 conception and birth of a child resulting from assisted  
27 reproduction performed on the patient in violation of this  
28 chapter.

29     *b.* A donor has a separate cause of action under this  
30 section for each conception or conception and birth of a child  
31 conceived through assisted reproduction in violation of this  
32 chapter using the donor's human reproductive material, and for  
33 each instance in which the donor's human reproductive material  
34 was used without the donor's consent or in a manner or to an  
35 extent other than that to which the donor consented.

1 3. In an action brought under this section, in addition to  
2 any compensatory and punitive damages, the court shall award  
3 the prevailing plaintiff the costs of any applicable fertility  
4 treatments, court costs, and reasonable attorney fees.

5 Sec. 5. NEW SECTION. 714I.5 Statute of limitations — other  
6 remedies.

7 1. Notwithstanding any provision of law to the contrary, an  
8 action brought pursuant to this chapter may be commenced:

9 a. Within ten years after the eighteenth birthday of a child  
10 conceived through assisted reproduction as the result of a  
11 violation of this chapter.

12 b. If paragraph "a" does not apply, within twenty years  
13 from the date the procedure resulting in the conception  
14 through assisted reproduction in violation of this chapter was  
15 performed.

16 c. If paragraph "a" or "b" does not apply, or if an action  
17 would otherwise be barred because the statute of limitations  
18 under paragraph "a" or "b" is exhausted, an action under this  
19 chapter may be commenced within five years of any of the  
20 following, whichever occurs latest:

21 (1) The date the person bringing the action first discovers  
22 evidence sufficient to bring an action against the defendant  
23 identified through the use of an analysis of a DNA profile  
24 as defined in section 81.1. As used in this subparagraph,  
25 "identified" means a person's legal name is known and the person  
26 has been determined to be the source of the DNA.

27 (2) The date the person bringing the action first discovers  
28 the existence of a recording that provides evidence sufficient  
29 to bring an action against the defendant.

30 (3) The date the defendant admits to the facts giving rise  
31 to the action.

32 2. This chapter shall not be construed to prohibit a person  
33 from pursuing any other remedy provided by law.

34 Sec. 6. Section 147.55, Code 2022, is amended by adding the  
35 following new subsection:

1     NEW SUBSECTION. 7A. Unprofessional conduct constituted by  
2 sexual abuse in the third degree in violation of section 709.4,  
3 subsection 1A, or a violation of section 714I.3.

4     Sec. 7. Section 692A.102, subsection 1, paragraph c, Code  
5 2022, is amended by adding the following new subparagraph:

6     NEW SUBPARAGRAPH. (11A) Sexual abuse in the third degree in  
7 violation of section 709.4, subsection 1A.

8     Sec. 8. Section 709.4, Code 2022, is amended by adding the  
9 following new subsection:

10    NEW SUBSECTION. 1A. A physician commits sexual abuse in  
11 the third degree when the physician violates chapter 714I by  
12 knowingly and intentionally implanting the physician's own  
13 human reproductive material through assisted reproduction  
14 without the patient's prior knowledge and express written  
15 consent. It is not a defense to a violation of chapter 714I  
16 under this subsection that a patient expressly consented in  
17 writing to the use of human reproductive material from an  
18 anonymous donor. For the purposes of this subsection, "*assisted*  
19 *reproduction*", "*human reproductive material*", "*patient*", and  
20 "*physician*" mean the same as defined in section 714I.2.>

21    2. Title page, line 1, after <reproduction> by inserting  
22 <fraud,>

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