

**Senate File 2169 - Introduced**

SENATE FILE 2169

BY SWEENEY

**A BILL FOR**

1 An Act relating to assisted reproduction fraud, and providing  
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714I.1 Short title.

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

4 Sec. 2. NEW SECTION. 714I.2 Definitions.

5 For purposes of this chapter, unless the context otherwise  
6 requires:

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

9 2. "*Donor*" means an individual who provides gametes  
10 intended for use in assisted reproduction, whether or not for  
11 consideration.

12 3. "*Gamete*" means a sperm, an egg, or any part of a sperm  
13 or an egg.

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

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

21 6. "*Human reproductive material*" means a human gamete or a  
22 human organism at any stage of development from fertilized ovum  
23 to embryo.

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

26 8. "*Physician*" means an individual licensed under chapter  
27 148.

28 Sec. 3. NEW SECTION. 714I.3 Prohibited practices and acts.

29 1. A person shall not engage in a practice or act the  
30 person knows or reasonably should have known provides false  
31 information to a patient related to an assisted reproduction  
32 procedure or treatment including false information relating to  
33 any of the following:

34 a. The human reproductive material used or provided for  
35 assisted reproduction.

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

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

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

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

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

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

21     *b.* A physician or health facility that violates subsection  
22 2 is guilty of a class "C" felony, punishable by the applicable  
23 maximum years of confinement and maximum fine.

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

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

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

1 **damages.**

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

6 *a.* The patient who conceives or conceives and gives birth to  
7 a child conceived through assisted reproduction in violation of  
8 this chapter.

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

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

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

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

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

33 3. In an action brought under this section, in addition to  
34 any compensatory and punitive damages, the court shall award  
35 the prevailing plaintiff the costs of any applicable fertility

1 treatments, court costs, and reasonable attorney fees.

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

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

6 a. Within ten years after the eighteenth birthday of a child  
7 conceived through assisted reproduction as the result of a  
8 violation of this chapter.

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

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

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

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

27 (3) The date the defendant admits to the facts giving rise  
28 to the action.

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

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

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



1 the donor's consent or in a manner or to an extent other than  
2 that to which the donor consented.

3 A person that engages in a practice or act the person knows  
4 or reasonably should have known provides false information to  
5 a patient related to an assisted reproduction procedure or  
6 treatment is guilty of a class "D" felony, punishable by the  
7 applicable maximum years of confinement and maximum fine. A  
8 class "D" felony is punishable by confinement for no more than  
9 five years and a fine of at least \$1,025 but not more than  
10 \$10,245.

11 A physician or health facility that uses or provides  
12 a patient with human reproductive material for assisted  
13 reproduction other than that to which the patient expressly  
14 consented in writing or that is not provided with the donor's  
15 consent or in a manner or to an extent other than that to  
16 which the donor consented, is guilty of a class "C" felony,  
17 punishable by the applicable maximum years of confinement and  
18 maximum fine. A class "C" felony is punishable by confinement  
19 for no more than 10 years and a fine of at least \$1,370 but not  
20 more than \$13,660.

21 It is not a defense to a violation of these provisions  
22 of the bill that a patient expressly consented in writing  
23 to the use of human reproductive material from an anonymous  
24 donor. A violation of these provisions of the bill by a  
25 physician, health care professional, or health facility is  
26 grounds for denial of an application for, denial of renewal  
27 of, or revocation of any license, permit, certification, or  
28 any other form of permission required to practice a profession  
29 or to establish, conduct, or maintain a facility regulated  
30 by the state. A violation of these provisions of the bill  
31 by a physician or health care professional constitutes  
32 unprofessional conduct subjecting a licensee to discipline  
33 which may include revocation or suspension of a license.

34 The bill provides for a private cause of action to be brought  
35 for compensatory and punitive damages against any person that

1 engaged in a prohibited practice or act in violation of the  
2 bill. A cause of action may be brought by the patient who  
3 conceives or conveys and gives birth to a child conceived  
4 through assisted reproduction in violation of the bill;  
5 the spouse of a patient at the time the patient utilized  
6 assisted reproduction services, if the patient conceives or  
7 conceives and gives birth to a child conceived through assisted  
8 reproduction in violation of the bill; a child born as the  
9 result of being conceived through assisted reproduction in  
10 violation of the bill; or a donor whose human reproductive  
11 material resulted in the conception or conception and birth of  
12 a child conceived through assisted reproduction in violation of  
13 bill or whose human reproductive material was used without the  
14 donor's consent or in a manner or to an extent other than that  
15 to which the donor consented.

16 A patient or the spouse of a patient has a separate cause of  
17 action for each conception or conception and birth of a child  
18 resulting from assisted reproduction performed on the patient  
19 in violation of the bill. A donor has a separate cause of  
20 action for each conception or conception and birth of a child  
21 conceived through assisted reproduction in violation of the  
22 bill using the donor's human reproductive material, and for  
23 each instance in which the donor's human reproductive material  
24 was used without the donor's consent or in a manner or to an  
25 extent other than that to which the donor consented.

26 In addition to any compensatory and punitive damages  
27 awarded, the court shall award the prevailing plaintiff the  
28 costs of any applicable fertility treatments, court costs, and  
29 reasonable attorney fees.

30 The bill provides statutes of limitations applicable to an  
31 action brought to address violations of these provisions of the  
32 bill. Under the bill, an action may be brought within 10 years  
33 after the 18th birthday of a child conceived through assisted  
34 reproduction as the result of a violation of the bill, or if  
35 this provision does not apply, within 20 years from the date



1 the procedure resulting in the conception through assisted  
2 reproduction in violation of the bill was performed.

3 If neither of these provisions is applicable or if an  
4 action would otherwise be barred because the statutes of  
5 limitations under these provisions are exhausted, an action  
6 may be commenced within five years of any of the following,  
7 whichever occurs latest: the date the person bringing the  
8 action first discovers evidence sufficient to bring an action  
9 against the defendant identified through the use of an analysis  
10 of a DNA profile as defined in Code section 81.1; the date the  
11 person bringing the action first discovers the existence of a  
12 recording that provides evidence sufficient to bring an action  
13 against the defendant; or the date the defendant admits to the  
14 facts giving rise to the action.

15 The bill does not prohibit a person from pursuing any other  
16 remedy provided by law.

17 The bill also provides that a physician commits sexual abuse  
18 in the third degree when the physician implants the physician's  
19 own human reproductive material through assisted reproduction  
20 without the patient's prior knowledge and written consent.  
21 Sexual abuse in the third degree is also a class "C" felony.

22 The bill provides that under Code chapter 692A (sex offender  
23 registry), sexual abuse in the third degree when a physician  
24 violates the bill by implanting the physician's own human  
25 reproductive material through assisted reproduction without the  
26 patient's prior knowledge and without consent is a tier III  
27 sex offense for purposes of required registration on the sex  
28 offender registry.

29 Current statute of limitations provisions under Code section  
30 802.2 provide that an information or indictment for sexual  
31 abuse in the third degree committed on or with a person who  
32 is under the age of 18 years may be commenced at any time  
33 after the commission of the offense; or within 10 years after  
34 its commission, or if the person against whom the information  
35 or indictment is sought is identified through the use of a

S.F. 2169

1 DNA profile, within three years from the date the person is  
2 identified by the person's DNA profile, whichever is later.