

CHAPTER 1123

ASSISTED REPRODUCTION FRAUD

S.F. 529

AN ACT relating to assisted reproduction fraud, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

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

[This chapter](#) shall be known and may be cited as the “*Fraud in Assisted Reproduction Act*”.

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

For purposes of [this chapter](#), unless the context otherwise requires:

1. “*Assisted reproduction*” means a method of causing pregnancy other than sexual intercourse involving medical or scientific intervention.
2. “*Donor*” means an individual who provides gametes intended for use in assisted reproduction, whether or not for consideration.
3. “*Gamete*” means a sperm, an egg, or any part of a sperm or an egg.
4. “*Health care professional*” means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
5. “*Health facility*” means a hospital, clinic, sperm bank, laboratory, or other health care institution involved in the assisted reproduction process.
6. “*Human reproductive material*” means a human gamete or a human organism at any stage of development from fertilized ovum to embryo.
7. “*Live birth*” means the same as defined in [section 144.1](#).
8. “*Patient*” means a person who has received or is receiving health services from a health care professional.
9. “*Spouse*” means the spouse of a patient who undergoes assisted reproduction at the time of conception, birth, or at any time during the period between conception and birth of a child through assisted reproduction.

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

1. A person shall not engage in a practice or act the person knows or reasonably should have known provides false information to a patient related to an assisted reproduction procedure or treatment including false information relating to any of the following:
 - a. The human reproductive material used or provided for assisted reproduction.
 - b. The identity of a donor of human reproductive material used or provided for assisted reproduction including but not limited to the donor’s name, birthdate, or address at the time of donation.
 - c. A donor’s medical history including but not limited to an illness of the donor at the time of donation, any past illness of the donor, or the social, genetic, or family history of the donor.
2. A health care professional or a health facility shall not knowingly or intentionally do any of the following:
 - a. Use or provide a patient with human reproductive material for assisted reproduction other than that to which the patient expressly consented in writing.
 - b. Use or provide a patient with human reproductive material for assisted reproduction that is not provided with the donor’s consent or in a manner or to an extent other than that to which the donor consented.
3. It is not a defense to a violation of [this section](#) that a patient expressly consented in writing to the use of human reproductive material from an anonymous donor.
4. A violation of [this section](#) by a health care professional or health facility constitutes grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice a profession or establish, conduct, or maintain a facility regulated by the state. A violation of [this section](#) by a health care professional constitutes unprofessional conduct.

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

1. A cause of action for damages against any person in violation of [section 714I.3, subsection 2](#), may be brought in accordance with the following:

a. (1) (a) By the patient or the spouse of the patient, if the patient conceives and gives birth to a child through assisted reproduction in violation of [section 714I.3, subsection 2](#).

(b) By a child born as the result of being conceived through assisted reproduction in violation of [section 714I.3, subsection 2](#), if the patient who conceived and gave birth to such child or the patient's spouse is deceased or is otherwise unable to bring such cause of action.

(2) A patient, or the spouse of the patient, has a separate cause of action under this paragraph "a" for each conception and birth of a child through assisted reproduction performed in violation of [section 714I.3, subsection 2](#).

b. (1) By the patient or the spouse of the patient, if the patient conceives through assisted reproduction in violation of [section 714I.3, subsection 2](#), but the conception does not result in the live birth of the child.

(2) A cause of action is barred under this paragraph "b" if the conception does not result in a live birth because of an induced termination of pregnancy required to be reported pursuant to [section 144.29A](#) or because the patient or the patient's spouse intentionally terminates the pregnancy in violation of [section 707.7](#).

2. A cause of action for damages may be brought by a donor whose human reproductive material resulted in the conception or conception and birth of a child conceived through assisted reproduction in violation of [section 714I.3](#) or whose human reproductive material was used without the donor's consent or in a manner or to an extent other than that to which the donor consented in violation of [section 714I.3](#).

3. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under [subsection 1](#), paragraph "a", is entitled to all of the following:

a. (1) If the health care professional used the health care professional's own human reproductive material for assisted reproduction in violation of [section 714I.3, subsection 2](#), the health care professional is determined through blood or genetic testing to be a biological parent as defined in [section 600A.2](#) of the child, and the action is brought within the time limitations specified in [section 614.8](#), damages in an amount that is the sum of all of the following:

(a) The basic support obligation prescribed by the child support guidelines established pursuant to [section 598.21B](#) based on the health care professional's monthly adjusted net income for the time period specified for support for a child under [section 598.1, subsection 9](#).

(b) Medical support as defined in [section 252E.1](#).

(c) A postsecondary education subsidy as defined in [section 598.1](#).

(d) Such other sums as described in [section 252A.3, subsection 12](#), giving due regard to the circumstances of the plaintiff.

(2) A determination that the health care professional is a biological parent of the child or the awarding of damages under this paragraph "a" does not create a parent-child relationship between the child and the health care professional for any legal purpose.

b. Statutory damages in the amount of two hundred thousand dollars. Such damages shall be awarded to the prevailing plaintiff regardless of whether the child born as the result of being conceived through assisted reproduction in violation of [section 714I.3, subsection 2](#), is deceased at the time the civil action is commenced or at the time a violation is found.

c. Costs attributable to the assisted reproduction procedure or treatment process.

d. Court costs.

e. Reasonable attorney fees.

4. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under [subsection 1](#), paragraph "b", is entitled to all of the following:

a. Statutory damages in the amount of five thousand dollars.

b. Costs attributable to the assisted reproduction procedure or treatment process.

c. Court costs.

d. Reasonable attorney fees.

5. In addition to compensatory or punitive damages, a prevailing plaintiff who brings an action under [subsection 2](#) is entitled to all of the following:

a. Statutory damages in the amount of five thousand dollars.

- b. Court costs.
- c. Reasonable attorney fees.

6. Notwithstanding any provision of law to the contrary, an action brought pursuant to [this section](#) is not subject to a statute of limitations and may be commenced at any time.

Sec. 5. [Section 147.55](#), Code 2022, is amended by adding the following new subsections:
NEW SUBSECTION. 7A. Sexual abuse in the fourth degree in violation of [section 709.4A](#).
NEW SUBSECTION. 7B. Fraud in assisted reproduction in violation of [section 714I.3](#).

Sec. 6. [Section 692A.102, subsection 1](#), paragraph c, Code 2022, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (012) Sexual abuse in the fourth degree in violation of [section 709.4A, subsection 3](#), if the perpetrator is a health care professional as defined in [section 714I.2](#), who used¹ the health care professional's own human reproductive material for assisted reproduction in violation of [section 714I.3, subsection 2](#).

Sec. 7. NEW SECTION. **709.4A Sexual abuse in the fourth degree — health care professionals.**

1. A health care professional commits sexual abuse in the fourth degree when the health care professional uses or provides a patient with human reproductive material for assisted reproduction other than that to which the patient expressly consented in writing in violation of [section 714I.3, subsection 2](#).

2. Sexual abuse in the fourth degree is an aggravated misdemeanor.

3. *a.* Notwithstanding [subsection 2](#), sexual abuse in the fourth degree is a class “D” felony if the health care professional uses or provides the health care professional's own human reproductive material for assisted reproduction in violation of [section 714I.3, subsection 2](#).

b. A parent-child relationship between a child and a health care professional is not created for any legal purpose when the child is born as the result of being conceived through commission of sexual abuse in the fourth degree as described in [this subsection](#).

4. For the purposes of [this section](#), “*assisted reproduction*”, “*gamete*”, “*health care professional*”, “*human reproductive material*”, and “*patient*” mean the same as defined in [section 714I.2](#).

Sec. 8. NEW SECTION. **802.2E Sexual abuse — fourth degree.**

An information or indictment for sexual abuse in the fourth degree may be commenced at any time after the commission of the offense.

Approved June 14, 2022

¹ See chapter 1153, §14 herein