

SENATE BILL REPORT

ESHB 1300

As of February 16, 2024

Title: An act relating to fraud in assisted reproduction.

Brief Description: Concerning fraud in assisted reproduction.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Orwall, Mosbrucker, Graham, Jacobsen, Lekanoff, Macri and Reed).

Brief History: Passed House: 2/9/24, 97-0.

Committee Activity: Law & Justice: 2/16/24.

Brief Summary of Bill

- Creates a new alternative method of committing the crime of assault in the third degree whereby a person implants their gametes or reproductive material into a patient without the patient's written consent.
- Classifies a licensed health care professional implanting their gametes or reproductive material into a patient without the patient's written consent as unprofessional conduct under the Uniform Disciplinary Act.
- Creates a work group under the Department of Health related to fraud in assisted reproduction.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Assisted Reproduction. Assisted reproduction is a method of causing pregnancy by means other than sexual intercourse. Assisted reproduction includes impregnation by intrauterine or intracervical insemination, donation of gametes, donation of embryos, in-vitro fertilization and transfer of embryos, and intracytoplasmic sperm injection. A donor is an individual who provides gametes intended for use in assisted

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reproduction. Gametes are sperm, eggs, or any part thereof.

Uniform Disciplinary Act. The Uniform Disciplinary Act (UDA) provides a legal and policy framework for the regulation and oversight of health care providers by the relevant disciplining authorities for each health care provider. Disciplining authorities have the authority to investigate all complaints or reports of unprofessional conduct as defined under the UDA. Upon a finding, after a hearing, that a license holder has committed unprofessional conduct, the disciplining authority is required to issue and order including appropriate sanctions.

Assault in the Third Degree. Assault is the intentional infliction of bodily injury to another person with unlawful force, unlawfully touching another person with criminal intent, or putting another person in apprehension of harm. A person commits assault in the third degree if the person commits an assault of a member of one of the statutorily enumerated classes or commits an assault with a particular criminal mental state. In most circumstances, excluding assaulting a police officer with a stun gun, assault in the third degree is classified as a seriousness level III, class C felony, meaning a person with no relevant criminal history convicted of this crime would face a standard sentencing range of one to three months imprisonment.

Summary of Bill: A new alternative method of committing assault in the third degree is created. A person commits assault in the third degree if the person implants their gametes or reproductive material into a patient without the patient's written consent.

Under the Uniform Disciplinary Act, it is unprofessional conduct for a licensed health care provider to implant their gametes or reproductive material into a patient without the patient's written consent.

By August 1, 2024, the Department of Health (DOH) must convene a work group to evaluate and make recommendations to the Governor and the Legislature related to addressing fraud in assisted reproduction. The work group must evaluate and make recommendations related to the following:

- conduct that may constitute fraud in assisted reproduction;
- whether particular forms of fraud in assisted reproduction should be subject to increased regulation and enforcement;
- whether certain information about the identity and background of donors should be protected or shared, and with whom that information should be shared and not shared;
- whether to allow or prohibit anonymous donations;
- whether there should be any limits on how frequently the same person may provide donations of reproductive material;
- current regulations on assisted reproduction services offered by health care providers, fertility clinics, and gamete banks in Washington;
- approaches other jurisdictions have undertaken to address fraud in assisted reproduction;

- resources for victims of fraud in assisted reproduction; and
- any other relevant factors or considerations.

The DOH must issue a final report to the Governor and the Legislature by October 1, 2025, and the work group expires January 1, 2026.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: When you go into a doctor's office, you assume you are safe. Families are deeply harmed when a doctor uses his or her own reproductive material when providing assisted reproduction. This bill provides the ability to take action against this behavior and creates a pathway towards justice for the victims. This is a current problem in Washington. Instances of this behavior have been brought to light, not necessarily because the frequency has increased but due to advancement in DNA testing that have revealed past bad actors. The potential for abuse by health care providers cannot be negated if this behavior is allowed to continue. This has no place in medicine. Fraud in assisted reproduction will continue to occur until the Legislature does something about it. However, fraud in assisted reproduction goes beyond the behavior of health care providers and includes misleading and false information provided by donors and the clinics themselves. This will help create a framework for truth and transparency in assisted reproduction.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Kara Rubinstein Deyerin, Right to Know; Micah Matthews , Washington Medical Commission .

Persons Signed In To Testify But Not Testifying: No one.