

Fraudulent Assisted Reproduction

(HB 64, which is now an amendment to Sub. SB 288)

Desired Outcome

To establish criminal penalties for Fraudulent Assisted Reproduction (also known as Fertility Fraud) in Ohio; examples of fertility fraud including doctors using their own sperm to inseminate their patients (instead of the husband's or chosen donor's) or a fertility clinic misrepresenting the health or education of a donor.

Current Situation

- Through use of direct-to-consumer DNA testing, people in Ohio and other states discovered that fertility specialists used their own reproductive material rather than that of the designated donor, thus producing a child or children.
- Until recently, this was not readily discoverable, and therefore had not been addressed in law.
- As cases have surfaced, states have begun to make this deceitful and unethical action a crime. Since 2019 the following states have passed laws to address this: Arkansas, Arizona, Colorado, Florida, Indiana, Kentucky, Texas, and Utah. California passed its law in 1996. Similar bills are pending in several other states including Michigan and Iowa.
- Under current law, this heinous act is not illegal, and no specific criminal or civil penalty can be assigned to individuals who engage in this activity. Ohio law must be amended to create specific penalties for this misconduct.

Proposed Changes to Ohio Law Under HB 64/SB 288*

- Creates criminal and civil penalties in cases of assisted reproduction where it is discovered that a health care provider:
 - Used human reproductive material from the health care provider, donor, or any other person while performing the procedure if the patient receiving the procedure had not expressly consented to the use of that material
 - Misrepresented to the patient receiving the procedure any material information about the donor's profile (e.g., health, education)
- Establishes that if a health care professional is convicted of, or pleads guilty to, fraudulent assisted reproduction, the court shall notify the appropriate professional licensing board of the conviction or guilty plea.
- Establishes the offense as a third-degree felony or in the case of multiple violations, a second-degree felony.
- Provides that a patient's consent to the use of human reproductive material from an anonymous donor is not consent for to use reproductive material of the health care professional performing the procedure.

**House Bill 64 was introduced 2/3/2021 and passed the Criminal Justice Committee unanimously on 4/6/2022. HB 64 has now been added to Substitute SB 288.*



For more information

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