

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-0120.02 Owen Hatch x2698

HOUSE BILL 25-1259

HOUSE SPONSORSHIP

Froelich and Brown,

SENATE SPONSORSHIP

Cutter and Daugherty,

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ASSISTED REPRODUCTION, AND, IN CONNECTION**
102 **THEREWITH, ADOPTING IN VITRO FERTILIZATION AND OTHER**
103 **ASSISTED REPRODUCTION AND FERTILITY PROTECTIONS AND**
104 **ELIMINATING OTHER ADMINISTRATIVE REQUIREMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill adds statutory protections for in vitro fertilization and other assisted reproductive procedures.

Current law requires gamete banks and fertility clinics (donor

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

banks) to maintain donor identifying information and update it every 3 years. The bill requires donor banks to collect identifying information and medical history from the gamete donor only at the initial donation.

Current law prohibits donor banks from prohibiting an adult donor-conceived person from communicating about the gamete donor with the donor-conceived person's friends, family, or other third parties. The bill eliminates that prohibition.

The bill repeals certain provisions relating to gamete donor record stewardship in the event of donor bank dissolution, bankruptcy, or insolvency and eliminates the requirement that donor banks inform a recipient parent about future implications about a gamete donor's medical history or other persons conceived using the same gamete donor.

Current law requires the department of public health and environment (department) to draft written materials that must be provided to individuals prior to donating or receiving gametes. The bill removes the responsibility from the department and requires donor banks to create the materials.

Current law requires donor recipients to update and inform donor banks regarding live births using donated gametes. The bill allows donor banks to only recommend this step to recipients of donor gametes.

Donor bank licensure renewal is extended from annually to once every 5 years. The requirement that the department investigate donor banks outside the state of Colorado is eliminated, and the fine for donor banks that are out of compliance is modified from an automatic \$20,000 per-day fine to a fine to be determined by the state board of health.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Reducing Barriers to Building Families Act".

4 **SECTION 2. Legislative declaration.** (1) The general assembly
5 finds that:

6 (a) On February 16, 2024, the Alabama supreme court ruled that
7 embryos formed through in vitro fertilization, or IVF, are considered
8 children under the state's "Wrongful Death of a Minor Act";

9 (b) The court's 131-page opinion held that the act applies to all
10 unborn children, regardless of their location. The chief justice of Alabama
11 quoted the Bible and stated that embryos are children in cryogenic

1 nurseries. The result was that medical professionals performing IVF could
2 be legally prosecuted for manslaughter if an embryo was destroyed.

3 (c) The ruling raised great concerns about the impact on, in
4 particular, provision of women's health-care services, fertility care for all
5 individuals, and assisted reproductive technologies. Many legal and
6 medical experts across the country, including in Colorado, believe the
7 ruling, in ways similar to what has happened in Alabama, will interfere
8 nationwide with women's access to medical care, including necessary
9 medical care following miscarriages; will make it difficult for people to
10 undergo fertility care, including IVF and embryo transfer; could end or
11 severely limit IVF medical treatments; and could interfere with
12 individuals even transferring their embryos to clinics outside of our state.

13 (d) After the ruling, IVF clinics in Alabama ceased providing
14 infertility medical services and also ceased transferring embryos owned
15 by their patients to clinics outside of Alabama due to potential legal and
16 felony risks if an embryo was inadvertently destroyed.

17 (2) (a) The Alabama ruling, coupled with new, intrusive, and
18 difficult-to-implement requirements for gamete donation, has had
19 negative impacts on people seeking fertility treatments in Colorado.

20 (b) Colorado has been recognized for decades as a medical
21 destination for those seeking sophisticated and cutting-edge medical care
22 for infertility. Colorado's fertility clinics are highly respected; the state's
23 medical practitioners are known as pioneers in assisted reproductive
24 technologies, or ART medical care; and Colorado continues to advance
25 and provide top-notch ART fertility care.

26 (c) Equally matching its sophisticated ART medical care,
27 Colorado also ranks highly among all states due to its progressive laws

1 and legal protections for children born through assisted reproductive
2 technologies, laws that ensure donors of gametes (ova and sperm) and
3 embryos are not considered legal parents of any resulting children, and
4 the laws protect the parental rights of parents whose children are born
5 through ART, including through donated gametes and surrogacy.
6 Children born through ART in Colorado legally are able to know who
7 their parents are from the moment of birth, and potential parents are
8 likewise safeguarded due to Colorado's protections, including not
9 requiring a genetic relationship between parent and child and not
10 requiring parents to be married, and including opposite gender
11 individuals' access to ART, making Colorado a top choice for domestic
12 and international individuals seeking assisted reproduction medical care
13 treatment options.

14 (3) Therefore, the general assembly declares that:

15 (a) Colorado should remain a world-class destination for all
16 people who want to start a family, providing safe, cutting-edge medical
17 care for individuals in need of those services;

18 (b) It is also important to keep the transparency and rules around
19 disclosure in order to address the concerns of donor-conceived
20 individuals while preserving the whole ecosystem of Colorado's
21 world-class assisted reproduction technologies, infertility medical care
22 options, and gamete donation medical environment; and

23 (c) Recent legislation in Colorado has been challenging to
24 implement and has had a chilling effect on donations, as individuals are
25 daunted by the invasive reporting requirements. This act seeks to
26 streamline implementation of the provisions of the "Donor-Conceived
27 Persons Protection Act" while preserving the important transparency and

1 reporting requirements.

2 **SECTION 3.** In Colorado Revised Statutes, **add** 25-57-113 as
3 follows:

4 **25-57-113. Reproductive health care - fertility treatment -**
5 **protections - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "FERTILITY TREATMENT" MEANS ANY TEST, PROCEDURE,
8 MEDICATION, SURGERY, OR SERVICE TO DIAGNOSE, ENHANCE, OR ASSIST
9 AN INDIVIDUAL'S ABILITY TO REPRODUCE OR ACHIEVE PREGNANCY,
10 INCLUDING, BUT NOT LIMITED TO:

11 (I) IN VITRO FERTILIZATION;

12 (II) INTRAUTERINE INSEMINATION;

13 (III) OVULATION INDUCTION;

14 (IV) TESTICULAR OR OVARIAN BIOPSY;

15 (V) EMBRYO BIOPSY;

16 (VI) CRYOPRESERVATION AND THAWING OF GAMETES AND
17 EMBRYOS;

18 (VII) CRYOPRESERVATION OF TESTICULAR AND OVARIAN TISSUE;

19 (VIII) STORAGE, DONATION, OR DISPOSAL OF GAMETES, EMBRYOS,
20 OR REPRODUCTIVE TISSUE;

21 (IX) PRE-IMPLANTATION GENETIC TESTING, OR ANY OTHER
22 MEDICAL SCREENING OR EVALUATION OF EMBRYOS OR GAMETES;

23 (X) DONATION OF SPERM OR EGGS; AND

24 (XI) SURROGACY.

25 (b) "REPRODUCTIVE HEALTH CARE" MEANS, BUT IS NOT LIMITED
26 TO:

27 (I) FAMILY PLANNING;

1 (II) CONTRACEPTION;
2 (III) STERILIZATION;
3 (IV) PRE-CONCEPTION CARE;
4 (V) MATERNITY CARE;
5 (VI) POSTPARTUM CARE;
6 (VII) ABORTION CARE;
7 (VIII) EMERGENCY CONTRACEPTION;
8 (IX) FERTILITY SERVICES;
9 (X) COUNSELING REGARDING REPRODUCTIVE HEALTH CARE; AND
10 (XI) REFERRAL SERVICES REGARDING REPRODUCTIVE HEALTH
11 CARE.

12 (2) (a) EVERY INDIVIDUAL HAS A FUNDAMENTAL RIGHT TO MAKE
13 AUTONOMOUS DECISIONS ABOUT THE INDIVIDUAL'S OWN REPRODUCTIVE
14 HEALTH, INCLUDING THE FUNDAMENTAL RIGHT TO USE OR REFUSE
15 REPRODUCTIVE HEALTH CARE AND THE ABILITY, WITHOUT GOVERNMENT
16 RESTRICTION, TO:

17 (I) USE GAMETES AND EMBRYOS;
18 (II) DESTROY GAMETES AND EMBRYOS; OR
19 (III) DONATE GAMETES AND EMBRYOS TO THIRD PARTIES FOR
20 PROCREATION OR RESEARCH.

21 (b) THE STATE SHALL NOT DENY, RESTRICT, INTERFERE WITH, OR
22 DISCRIMINATE AGAINST AN INDIVIDUAL'S EXERCISE OF THE FUNDAMENTAL
23 RIGHTS SET FORTH IN THIS SUBSECTION (2), INCLUDING INDIVIDUALS
24 UNDER STATE CUSTODY, CONTROL, OR SUPERVISION.

25 (3) THE STATE AND LOCAL GOVERNMENTS SHALL NOT INTERFERE
26 WITH OR RESTRICT A PHYSICIAN OR LICENSED MEDICAL PROVIDER'S
27 ABILITY TO PROVIDE REPRODUCTIVE HEALTH CARE, AS DEFINED IN THIS

1 SECTION.

2 (4) IT IS CONTRARY TO THE PUBLIC POLICY OF THIS STATE TO
3 PERMIT AN INDIVIDUAL TO BRING A CIVIL OR CRIMINAL ACTION
4 AUTHORIZED IN ANOTHER STATE AGAINST AN INDIVIDUAL IN THIS STATE
5 FOR ENGAGING OR ATTEMPTING TO ENGAGE IN THE FOLLOWING CONDUCT:

6 (a) TERMINATING OR SEEKING TO TERMINATE A PREGNANCY;

7 (b) PERFORMING OR INDUCING THE TERMINATION OF A
8 PREGNANCY;

9 (c) KNOWINGLY ENGAGING IN CONDUCT THAT AIDS OR ABETS THE
10 PERFORMANCE OR INDUCEMENT OF THE TERMINATION OF PREGNANCY;

11 (d) PROVIDING REPRODUCTIVE HEALTH CARE, AS DEFINED IN THIS
12 SECTION; OR

13 (e) PROVIDING FERTILITY TREATMENT, AS DEFINED IN THIS
14 SECTION.

15 **SECTION 4.** In Colorado Revised Statutes, 25-57-104, **amend**
16 (1) as follows:

17 **25-57-104. Collection of identifying information and medical**
18 **history - applicability.** (1) Except as provided in subsection (3) of this
19 section, a gamete agency, gamete bank, or fertility clinic that collects
20 gametes from a donor or matches a donor with a recipient shall collect the
21 donor's identifying information and medical history. ~~and shall make a~~
22 ~~good faith effort to maintain current contact information and updates on~~
23 ~~the medical history of the donor by requesting updates from the donor at~~
24 ~~least once every three years.~~

25 **SECTION 5.** In Colorado Revised Statutes, 25-57-106, **amend**
26 (1) as follows:

27 **25-57-106. Disclosure of identifying information and medical**

1 **history - applicability.** (1) Except as provided in subsection (4) of this
2 section, upon the request of a donor-conceived person who is eighteen
3 years of age or older, a gamete agency, gamete bank, or fertility clinic that
4 matched or collected the gametes used in the assisted reproduction of
5 ~~such~~ THE donor-conceived person shall provide the donor-conceived
6 person with the identifying information of the donor who provided the
7 gametes or embryo. A gamete agency, gamete bank, or fertility clinic
8 shall not impede or prohibit compliance with this section or
9 communication between

10 (a) an adult donor-conceived person and the donor whose gametes
11 were used to conceive the donor-conceived person. ~~or~~

12 ~~(b) An adult donor-conceived person and the person's friends,~~
13 ~~family, or other third parties about the donor whose gametes were used~~
14 ~~to conceive the donor-conceived person.~~

15 **SECTION 6.** In Colorado Revised Statutes, 25-57-107, **amend**
16 (1) introductory portion; and **repeal** (3), (4), (5), (6), and (7) as follows:

17 **25-57-107. Record keeping.** (1) ~~Except as provided in subsection~~
18 ~~(6) of this section,~~ A gamete agency, gamete bank, or fertility clinic shall
19 permanently maintain:

20 (3) ~~Except as provided in subsection (6) of this section, in its~~
21 ~~application for a license pursuant to section 25-57-110, a gamete agency,~~
22 ~~gamete bank, or fertility clinic shall submit a proposed plan to~~
23 ~~permanently maintain the records described in subsections (1) and (2) of~~
24 ~~this section in the event of dissolution, insolvency, or bankruptcy. The~~
25 ~~plan may include identification of a named entity to receive or maintain~~
26 ~~the records, obtaining a surety bond in favor of a third party in an amount~~
27 ~~sufficient to cover the costs of permanent record keeping, an obligation~~

1 ~~to condition any sale on the acquiring entity's obligation to maintain~~
2 ~~records consistent with this section, or similar methods. The department~~
3 ~~shall not issue a license pursuant to section 25-57-110 until it approves a~~
4 ~~plan that it finds sufficient to ensure that the records will be permanently~~
5 ~~maintained by a viable entity.~~

6 (4) ~~Except as provided in subsection (6) of this section, upon~~
7 ~~dissolution, insolvency, or bankruptcy, a gamete agency, gamete bank, or~~
8 ~~fertility clinic shall:~~

9 (a) ~~Implement the plan approved by the department pursuant to~~
10 ~~subsection (3) of this section;~~

11 (b) ~~File with the department a statement providing the name and~~
12 ~~contact information of the successor entity, if any, that will receive and~~
13 ~~maintain the records described in subsections (1) and (2) of this section;~~
14 ~~and~~

15 (c) ~~Inform by mail and electronic mail sent to the last-known~~
16 ~~address on file all gamete donors whose gametes were collected, matched,~~
17 ~~or received by the gamete agency, gamete bank, or fertility clinic, as well~~
18 ~~as recipient parents who received gametes or embryos from the gamete~~
19 ~~agency, gamete bank, or fertility clinic and reported a pregnancy or live~~
20 ~~birth, the name and contact information of the successor entity that will~~
21 ~~receive and maintain the records described in subsections (1) and (2) of~~
22 ~~this section.~~

23 (5) ~~A gamete agency, gamete bank, or fertility clinic shall comply~~
24 ~~with reporting requirements about gamete screening and testing in~~
25 ~~accordance with federal law and applicable laws of this state other than~~
26 ~~those set forth in this article 57.~~

27 (6) ~~A gamete bank or fertility clinic that collects gametes from a~~

1 ~~donor who was matched with a recipient by a gamete agency that is a~~
2 ~~separate entity is not subject to the requirements of subsection (1), (3), or~~
3 ~~(4) of this section.~~

4 ~~(7) (a) Subsection (2) of this section applies only to gametes or~~
5 ~~embryos matched or received on or after July 1, 2024.~~

6 ~~(b) Subsections (1), (3), and (4) of this section apply only to~~
7 ~~gametes matched or collected on or after January 1, 2025, for use by a~~
8 ~~recipient parent or parents who are unknown to the donor at the time of~~
9 ~~the donation.~~

10 **SECTION 7.** In Colorado Revised Statutes, 25-57-108, **amend**
11 (1) introductory portion, (2) introductory portion, and (4) introductory
12 portion; and **repeal** (1)(f) as follows:

13 **25-57-108. Written materials for recipient parents and gamete**
14 **donors.** (1) On or before ~~January 1, 2025, the department~~ JANUARY 1,
15 2026, GAMETE AGENCIES, GAMETE BANKS, AND FERTILITY CLINICS shall
16 develop written materials for intended recipient parents. ~~The department~~
17 ~~shall develop the materials in conjunction with licensed mental health~~
18 ~~professionals who have prior documented experience counseling gamete~~
19 ~~donors, recipients, and donor-conceived persons, as well as experience~~
20 ~~and competency in counseling families with lesbian, gay, bisexual, and~~
21 ~~transgender parents and single parents, along with organizations~~
22 ~~representing these communities.~~ THE WRITTEN MATERIALS MUST MEET
23 THE MINIMUM STANDARDS SET BY THE AMERICAN SOCIETY OF
24 REPRODUCTIVE MEDICINE AND THE AMERICAN ACADEMY OF PEDIATRICS
25 REGARDING ASSISTED REPRODUCTION. The materials must include
26 information on the following: ~~subjects:~~

27 (f) ~~Future implications of receiving medical history updates about~~

1 ~~the donor or other persons conceived with the same donor's gametes.~~

2 (2) On or before ~~January 1, 2025, the department~~ JANUARY 1,
3 2026, GAMETE AGENCIES, GAMETE BANKS, AND FERTILITY CLINICS shall
4 develop written materials for gamete donors. ~~The department shall~~
5 ~~develop the materials in conjunction with licensed mental health~~
6 ~~professionals who have prior documented experience counseling gamete~~
7 ~~donors, recipients, and donor-conceived persons, as well as experience~~
8 ~~and competency in counseling families with lesbian, gay, bisexual, and~~
9 ~~transgender parents and single parents, along with organizations~~
10 ~~representing these communities.~~ THE WRITTEN MATERIALS MUST MEET
11 THE MINIMUM STANDARDS SET BY THE AMERICAN SOCIETY OF
12 REPRODUCTIVE MEDICINE AND THE AMERICAN ACADEMY OF PEDIATRICS
13 REGARDING ASSISTED REPRODUCTION. The materials must include
14 information on the following: ~~subjects:~~

15 (4) ~~A gamete agency, gamete bank, or fertility clinic located~~
16 ~~outside of Colorado that either matches donors to or provides~~ AN
17 INDIVIDUAL WHO EITHER MATCHES DONORS OR PROVIDES gametes or
18 embryos to recipients in Colorado shall:

19 **SECTION 8.** In Colorado Revised Statutes, 25-57-109, **amend**
20 (1)(a) as follows:

21 **25-57-109. Donor age limits - limits on number of families per**
22 **donor - limits on egg-retrieval cycles per ovum donor - rules -**
23 **applicability.** (1) (a) Except as provided in subsection (4) of this section,
24 a gamete agency, gamete bank, or fertility clinic shall make a good faith
25 effort to determine how many families are established with gametes
26 matched or provided by the gamete agency, gamete bank, or fertility
27 clinic from each donor by conducting sufficient record-keeping, ~~requiring~~

1 RECOMMENDING recipients ~~as a condition of receiving donor gametes, to~~
2 provide information on live births, and requesting information from
3 recipients on live births, and using industry best practices, including
4 methods or processes to account for the number or percentage of live
5 births that are likely not reported, such as the correlation between the
6 number of units of donor gametes sold or released and the resulting live
7 births. A gamete agency, gamete bank, or fertility clinic shall not match
8 or provide gametes from a donor to additional families once the gamete
9 agency, gamete bank, or fertility clinic has record of or should reasonably
10 know that twenty-five families have been established using a single
11 donor's gametes in or outside of Colorado, with no limit on the number
12 of children conceived by each of the families, unless the donor requests,
13 and the gamete agency, gamete bank, or fertility clinic agrees to, a lower
14 limit on the number of families. This limit does not include any children
15 conceived by the donor as a parent or children conceived with the donor's
16 gametes when the donor is known to the recipient parent or parents at the
17 time of the donation. This limit does not include donations of embryos
18 from one family to another family.

19 **SECTION 9.** In Colorado Revised Statutes, 25-57-110, **amend**
20 (2)(a), (3)(a)(I), and (6)(b); and **repeal** (3)(a)(III) as follows:

21 **25-57-110. License required - application - inspection -**
22 **issuance, denial, suspension, or revocation - fees - civil penalties -**
23 **rules.** (2) (a) A gamete agency, gamete bank, or fertility clinic shall
24 submit an ~~annual~~ application and fee EVERY FIVE YEARS for a license to
25 operate on the form and in the manner prescribed by the department.

26 (3) (a) (I) The department shall investigate and review each
27 original application and each renewal application for a license to operate

1 as a gamete agency, gamete bank, or fertility clinic. The department shall
2 require all applicants to submit information in the original and renewal
3 application process to document compliance with licensing requirements.
4 ~~Subject to available appropriations, the department may, as it deems~~
5 ~~necessary, perform on-site inspections or complaint investigations of a~~
6 ~~gamete agency, gamete bank, or fertility clinic located outside of~~
7 ~~Colorado.~~ The department shall determine an applicant's compliance with
8 this article 57, and the rules adopted pursuant to this article 57, for the
9 collection and provision of gametes from donors who are unknown to a
10 recipient at the time of the donation before issuing a license.

11 (III) ~~When investigating or reviewing the records of a gamete~~
12 ~~agency, gamete bank, or fertility clinic located outside of Colorado, the~~
13 ~~department shall investigate and review only the records pertaining to~~
14 ~~donors whose gametes or embryos were matched or provided to recipients~~
15 ~~in Colorado.~~

16 (6) (b) ~~The department may assess a civil penalty of not more than~~
17 ~~twenty thousand dollars, adjusted annually for inflation, based on the~~
18 ~~annual percentage change in the United States department of labor's~~
19 ~~bureau of labor statistics consumer price index for~~
20 ~~Denver-Aurora-Lakewood for all items paid by all urban consumers, or~~
21 ~~its applicable predecessor or successor index,~~ ASSESS A CIVIL PENALTY,
22 AFTER THE STATE BOARD CONDUCTS A HEARING AND FINDS A VIOLATION,
23 for each day the person is in violation of this article 57. The assessed
24 penalty accrues from the date the department finds that the person,
25 corporation, or entity is in violation of this article 57. The department
26 shall assess, enforce, and collect the penalty in accordance with article 4
27 of title 24 and credit the money to the general fund. Enforcement and

1 collection of the penalty occurs following the decision reached in
2 accordance with procedures set forth in section 24-4-105.

3 **SECTION 10. Safety clause.** The general assembly finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety or for appropriations for
6 the support and maintenance of the departments of the state and state
7 institutions.