
By: **Delegates Rosenberg, Hubbard, Frush, and Morhaim**
Introduced and read first time: February 11, 2000
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **In Vitro Services - Embryos and Gametes - Consent and Disposition**

3 FOR the purpose of requiring certain persons to require advance written consent for
4 in vitro or other assisted reproduction services and directives in writing as to the
5 disposition of cryopreserved eggs or embryos, sperm, and fertilized eggs or
6 embryos; requiring a couple or an individual to provide advance written consent
7 for in vitro or other assisted reproduction services; requiring a couple or an
8 individual to provide directives in writing as to the disposition of cryopreserved
9 eggs or embryos, sperm, and fertilized eggs or embryos; specifying the choices
10 for disposition under certain circumstances; requiring the Secretary of Health
11 and Mental Hygiene to adopt certain regulations; providing for the modification
12 of advance written directives; requiring certain services to state time limits for
13 storage of cryopreserved eggs or embryos, sperm, and fertilized eggs or embryos;
14 providing for certain exceptions; and generally relating to in vitro services.

15 BY adding to
16 Article - Health - General
17 Section 20-701 through 20-710 to be under the new subtitle "Subtitle 7. In Vitro
18 Services"
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1999 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Health - General**

24 **SUBTITLE 7. IN VITRO SERVICES.**

25 20-701.

26 THIS SUBTITLE DOES NOT APPLY TO THE OBLIGATION OF A PHYSICIAN AND
27 SURGEON UNDER THE LAW TO OBTAIN THE INFORMED CONSENT OF A PATIENT
28 BEFORE PERFORMING A MEDICAL PROCEDURE THAT MAY SIGNIFICANTLY AFFECT
29 THE PATIENT'S HEALTH OR ABILITY TO CONCEIVE, OR BOTH.

1 20-702.

2 A PERSON LOCATED IN THE STATE PROVIDING IN VITRO OR OTHER ASSISTED
3 REPRODUCTION SERVICES OR A PERSON LOCATED OUTSIDE THE STATE PROVIDING
4 IN VITRO OR OTHER ASSISTED REPRODUCTION SERVICES TO A COUPLE OR AN
5 INDIVIDUAL WITHIN THE STATE, IN WHICH EGGS OR EMBRYOS, SPERM, OR
6 FERTILIZED EGGS OR EMBRYOS WILL BE CRYOPRESERVED FOR STORAGE SHALL
7 REQUIRE A COUPLE OR AN INDIVIDUAL TO PROVIDE TO THE PERSON:

8 (1) ADVANCE WRITTEN CONSENT FOR IN VITRO OR OTHER ASSISTED
9 REPRODUCTION SERVICES; AND

10 (2) DIRECTIVES IN WRITING AS TO THE DISPOSITION OF THE
11 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS.

12 20-703.

13 BEFORE RECEIVING ANY IN VITRO OR OTHER ASSISTED REPRODUCTION
14 SERVICES, A COUPLE OR AN INDIVIDUAL SHALL PROVIDE THE CONSENT AND
15 DIRECTIVES REQUIRED UNDER § 20-702 OF THIS SUBTITLE ON A FORM PRESCRIBED
16 BY THE SECRETARY.

17 20-704.

18 (A) THE FORM REQUIRING ADVANCE WRITTEN CONSENT FOR IN VITRO OR
19 ASSISTED REPRODUCTION SERVICES SHALL AT A MINIMUM STATE:

20 (1) THE NAME OF THE PATIENT;

21 (2) THE TYPE AND NUMBER, IF APPLICABLE, OF SPERM, EGGS, OR
22 EMBRYOS EXTRACTED; AND

23 (3) THE NAME OF THE CLINIC OR OTHER DONEE FOR A SPECIFIED
24 PURPOSE, WHICH SHALL BE CLEARLY STATED.

25 (B) THE FORM SHALL BE SIGNED AND DATED BY:

26 (1) THE PHYSICIAN AND SURGEON WHO REMOVES THE EGGS;

27 (2) THE CLINICIAN WHO ASSISTS IN SPERM COLLECTION; AND

28 (3) (I) IF A COUPLE IS TO RECEIVE THE SERVICES, THE MALE AND
29 FEMALE PARTNERS AND A WITNESS FOR EACH PARTNER; OR

30 (II) IF AN INDIVIDUAL WITHOUT A PARTNER IS TO RECEIVE THE
31 SERVICES, THE INDIVIDUAL AND A WITNESS FOR THE INDIVIDUAL.

32 (C) THE CONSENT SHALL BE RETAINED IN THE MEDICAL RECORD OF EACH
33 INDIVIDUAL, WITH A COPY PROVIDED TO:

34 (1) THE INDIVIDUAL; AND

1 (2) IF THE PROCEDURE TO REMOVE THE SPERM OR EGGS IS PERFORMED
2 IN A HOSPITAL, THE HOSPITAL.

3 20-705.

4 THE FORM PRESCRIBING DIRECTIVES AS TO THE DISPOSITION OF
5 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
6 SHALL:

7 (1) PROVIDE AT A MINIMUM THE DIRECTION AND CHOICES FOR
8 DISPOSITION IN THE CIRCUMSTANCES SET FORTH IN § 20-706 OF THIS SUBTITLE;
9 AND

10 (2) BE SIGNED AND DATED BY:

11 (I) THE PHYSICIAN; AND

12 (II) 1. IF A COUPLE IS TO RECEIVE THE SERVICES, THE MALE
13 AND FEMALE PARTNERS AND A WITNESS FOR EACH PARTNER; OR

14 2. IF AN INDIVIDUAL WITHOUT A PARTNER IS TO RECEIVE
15 THE SERVICES, THE INDIVIDUAL AND A WITNESS FOR THE INDIVIDUAL.

16 20-706.

17 (A) IN THE EVENT OF THE DEATH OF THE MALE PARTNER, THE
18 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
19 MAY BE:

20 (1) TRANSFERRED TO THE FEMALE PARTNER;

21 (2) DONATED FOR RESEARCH PURPOSES;

22 (3) THAWED WITH NO FURTHER ACTION TAKEN;

23 (4) DONATED TO ANOTHER INDIVIDUAL OR COUPLE; OR

24 (5) DISPOSED OF IN ANOTHER MANNER, PROVIDED THAT THE OTHER
25 DISPOSITION IS CLEARLY STATED.

26 (B) IN THE EVENT OF THE DEATH OF THE FEMALE PARTNER, THE
27 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
28 MAY BE:

29 (1) TRANSFERRED TO THE MALE PARTNER;

30 (2) DONATED FOR RESEARCH PURPOSES;

31 (3) THAWED WITH NO FURTHER ACTION TAKEN;

32 (4) DONATED TO ANOTHER INDIVIDUAL OR COUPLE; OR

1 (5) DISPOSED OF IN ANOTHER MANNER, PROVIDED THAT THE OTHER
2 DISPOSITION IS CLEARLY STATED.

3 (C) IN THE EVENT OF THE DEATH OF BOTH OF THE PARTNERS, THE
4 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
5 MAY BE:

6 (1) DONATED FOR RESEARCH PURPOSES;

7 (2) THAWED WITH NO FURTHER ACTION TAKEN;

8 (3) DONATED TO ANOTHER INDIVIDUAL OR COUPLE; OR

9 (4) DISPOSED OF IN ANOTHER MANNER, PROVIDED THAT THE OTHER
10 DISPOSITION IS CLEARLY STATED.

11 (D) IN THE EVENT OF A COUPLE'S LIMITED DIVORCE OR DIVORCE, THE
12 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
13 MAY BE:

14 (1) TRANSFERRED TO THE FEMALE PARTNER;

15 (2) TRANSFERRED TO THE MALE PARTNER;

16 (3) DONATED FOR RESEARCH PURPOSES;

17 (4) THAWED WITH NO FURTHER ACTION TAKEN;

18 (5) DONATED TO ANOTHER INDIVIDUAL OR COUPLE; OR

19 (6) DISPOSED OF IN ANOTHER MANNER, PROVIDED THAT THE OTHER
20 DISPOSITION IS CLEARLY STATED.

21 (E) IN THE EVENT OF THE DEATH OF AN INDIVIDUAL WITHOUT A PARTNER,
22 THE CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR
23 EMBRYOS MAY BE:

24 (1) DONATED FOR RESEARCH PURPOSES;

25 (2) THAWED WITH NO FURTHER ACTION TAKEN;

26 (3) DONATED TO ANOTHER INDIVIDUAL OR COUPLE; OR

27 (4) DISPOSED OF IN ANOTHER MANNER, PROVIDED THAT THE OTHER
28 DISPOSITION IS CLEARLY STATED.

29 20-707.

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

1 (2) "REQUEST TO ABANDON" MEANS A NOTIFICATION GIVEN IN WRITING
2 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE CLINIC OR STORAGE
3 FACILITY BY THE MALE AND FEMALE PARTNERS OR AN INDIVIDUAL WITHOUT A
4 PARTNER WHO HAS DECIDED TO CEASE PARTICIPATING IN THE ASSISTED
5 REPRODUCTION SERVICES.

6 (B) (1) WITHIN 30 DAYS OF THE RECEIPT OF A REQUEST TO ABANDON, THE
7 CLINIC OR STORAGE FACILITY SHALL SEND A WRITTEN NOTIFICATION TO THE MALE
8 AND FEMALE PARTNERS OR THE INDIVIDUAL WITHOUT A PARTNER BY CERTIFIED
9 MAIL, RETURN RECEIPT REQUESTED, THAT THE ADVANCE DIRECTIVES FOR
10 DISPOSITION WILL BE EXECUTED.

11 (2) A COPY OF THE NOTICE AND MAILING SHALL BE KEPT IN THE
12 MEDICAL RECORD OF EACH INDIVIDUAL.

13 (3) AT LEAST 30 DAYS AND NOT EXCEEDING 90 DAYS AFTER THE
14 WRITTEN NOTICE HAS BEEN MAILED, THE CLINIC OR STORAGE FACILITY SHALL
15 CARRY OUT THE DISPOSITION.

16 (C) (1) AFTER 2 CONSECUTIVE YEARS OF NONPAYMENT OF STORAGE FEES,
17 A CLINIC OR STORAGE FACILITY SHALL NOTIFY A COUPLE OR AN INDIVIDUAL
18 WITHOUT A PARTNER AT THE LAST KNOWN ADDRESS BY CERTIFIED MAIL, RETURN
19 RECEIPT REQUESTED, THAT THE ADVANCE DIRECTIVES FOR DISPOSITION IN THE
20 EVENT OF FAILURE TO PAY STORAGE FEES WILL BE EXECUTED UNLESS A COUPLE
21 OR AN INDIVIDUAL WITHOUT A PARTNER CONTACTS THE CLINIC OR STORAGE
22 FACILITY IN WRITING, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

23 (2) THREE MONTHS FROM THE DATE THE FIRST NOTICE WAS MAILED,
24 THE NOTICE SHALL BE MAILED A SECOND TIME BY CERTIFIED MAIL, RETURN
25 RECEIPT REQUESTED, AND A COPY OF BOTH NOTICES AND MAIL RECEIPTS SHALL BE
26 KEPT IN THE MEDICAL RECORD OF EACH INDIVIDUAL.

27 (3) IF THE CLINIC OR STORAGE FACILITY RECEIVES NO RESPONSE TO
28 BOTH THE FIRST AND SECOND NOTICE 30 DAYS FROM THE TIME THE SECOND
29 NOTICE WAS MAILED, THE STORAGE FACILITY MAY EXECUTE THE ADVANCE
30 DIRECTIVES FOR DISPOSITION BY THE MALE AND FEMALE PARTNERS OR THE
31 INDIVIDUAL WITHOUT A PARTNER FOR FAILURE TO PAY STORAGE FEES.

32 20-708.

33 THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL ADOPT
34 REGULATIONS THAT SPECIFY THE QUALIFICATIONS FOR A COUPLE OR AN
35 INDIVIDUAL WHO CHOOSES TO DISPOSE THROUGH DONATION TO ANOTHER COUPLE
36 OR INDIVIDUAL.

37 20-709.

38 THE DIRECTIVES FOR DISPOSITION OF CRYOPRESERVED EGGS OR EMBRYOS,
39 SPERM, AND FERTILIZED EGGS OR EMBRYOS MAY BE MODIFIED ONLY IN WRITING
40 AND SHALL BE SIGNED AND DATED BY:

1 (1) THE PHYSICIAN; AND

2 (2) (I) IF A COUPLE IS TO RECEIVE THE SERVICES, THE MALE AND
3 FEMALE PARTNERS AND A WITNESS FOR EACH PARTNER; OR

4 (II) IF AN INDIVIDUAL WITHOUT A PARTNER IS TO RECEIVE THE
5 SERVICES, THE INDIVIDUAL AND A WITNESS FOR THE INDIVIDUAL.

6 20-710.

7 THE FORM PRESCRIBING DIRECTIVES AS TO THE DISPOSITION OF
8 CRYOPRESERVED EGGS OR EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS
9 SHALL STATE THE TIME LIMIT FOR THE STORAGE OF THE CRYOPRESERVED EGGS OR
10 EMBRYOS, SPERM, AND FERTILIZED EGGS OR EMBRYOS BY AN IN VITRO OR OTHER
11 ASSISTED REPRODUCTION SERVICE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2000.