

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 436

(Senator Harris, *et al.*)

Finance

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**Retrieval of Oocytes - Prohibition**

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This bill prohibits a person from performing oocyte retrieval to collect oocytes to be used or donated for research purposes. A person who offers, solicits, retrieves, or otherwise encourages a person to use or donate oocytes for research purposes is guilty of a felony and on conviction is subject to maximum penalties of 10 years in prison and/or a \$200,000 fine. A violation of the bill is grounds for the denial of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the State.

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**Fiscal Summary**

**State Effect:** Potential increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** An oocyte is a female germ or egg cell. An individual may donate any unused material resulting from infertility treatment for clinical purposes in the treatment of infertility, other research purposes, or adoption. Any unused material resulting from infertility treatment donated for State-funded stem cell research may not be an oocyte.

An individual who donates any unused material resulting from infertility treatment for research purposes must provide written consent for the donation.

A person may not purchase, sell, transfer, or obtain any material donated from infertility treatment for valuable consideration nor provide valuable consideration to another person to encourage the production of material donated from infertility treatment for the sole purpose of medical research. A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of three years imprisonment and/or a \$50,000 fine.

**Background:** Oocyte donation involves hormonal stimulation to induce the production of multiple oocytes simultaneously, followed by a minimally invasive procedure to retrieve the oocytes. One technique used in embryonic stem cell research, somatic cell nuclear transfer, involves the transfer of genetic material from a cell into an enucleated oocyte to derive embryos. The embryos could then be destroyed in order to derive human embryonic stem cells.

**State Revenues:** General fund revenues could increase as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$465 per month. Excluding medical care, the average variable costs total \$134 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2008 are estimated to range from \$21 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase, perhaps significantly, as a result of the bill's monetary criminal penalty provisions from cases heard in the circuit courts. The number of persons convicted of this proposed crime is expected to be minimal.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$42 to \$120 per inmate in fiscal 2008.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 872 (Delegate McComas, *et al.*) – Health and Government Operations.

**Information Source(s):** *New International Society for Stem Cell Research Guidelines Skirt Issue of Egg Donor Compensation*, Genetics & Public Policy Center (February 2007); Department of Health and Mental Hygiene; Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2007

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