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SENATE BILL DRS35408-NBa-178

Short Title: Protect Children Born from Fertility Care Act. (Public)

Sponsors: Senator Murdock (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE LAWS REGARDING ARTIFICIAL INSEMINATION AND TO
3 PROVIDE CIVIL ACTIONS RELATED TO CHILDREN CONCEIVED THROUGH
4 THAT METHOD.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 49A of the General Statutes reads as rewritten:

7 "Chapter 49A.

8 "Rights of Children.

9 "Article 1.

10 "Children Conceived by Artificial Insemination.

11 "§ 49A-1. Status of child born as a result of artificial insemination.

12 Any child or children born as the result of heterologous artificial insemination shall be
13 considered at law in all respects the same as a naturally conceived legitimate child of the ~~husband~~
14 ~~and wife~~ spouses requesting and consenting in writing to the use of ~~such~~ the same technique.

15 "§ 49A-2. Findings.

16 The General Assembly finds that any child born using artificial insemination or assisted
17 reproductive treatment shall have the same protections and rights as a naturally conceived
18 legitimate child of the spouses or legal parental guardians. The General Assembly also finds that
19 the assisted reproductive treatment of a patient using the healthcare provider's own human
20 reproductive material, or other forms of reproductive material, without the patient's informed
21 written consent, has caused significant harm and had a severe negative impact on residents of
22 this State, including former patients and their children. This conduct has never constituted or
23 complied with the medical standard of care and violates doctor-patient trust.

24 "§ 49A-3. Definitions.

25 The following definitions apply in this Article:

- 26 (1) Artificial insemination. – All forms of assisted reproductive technology,
27 including intravaginal, intrauterine, or intracervical insemination, in vitro
28 fertilization and embryo transfer, and donation of egg, sperm, and embryo.
29 (2) Donor. – An individual who provides an egg, sperm, or embryo intended for
30 use in artificial insemination, whether or not for compensation. This term does
31 not include an individual who is a parent under the rules governing the
32 parentage of children conceived by artificial insemination or a parent of a
33 child born through artificial insemination.
34 (3) Healthcare. – Any phase of patient care, including testing, diagnosis,
35 prognosis, ancillary research, instructions, assisted reproduction, family
36 planning, counseling, referrals, or any other advice in connection with



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1 conception, or surgery or other care or treatment rendered by a physician,
2 nurse, paraprofessional, or healthcare facility, intended for the physical,
3 emotional, and mental well-being of persons.

4 (4) Healthcare provider. – An individual licensed by the North Carolina Medical
5 Board or the North Carolina Board of Nursing.

6 (5) Human reproductive material. – Human egg, sperm, or embryo.

7 (6) Patient. – A person who undergoes artificial insemination.

8 **"§ 49A-4. Rights; consent.**

9 (a) Rights. – If an individual consents to artificial insemination with the intent to be a
10 parent, then that individual shall be the parent of the child born from that artificial insemination,
11 vested with all rights and privileges available in this State.

12 (b) Consent. – An individual must do any of the following to qualify as a parent under
13 subsection (a) of this section:

14 (1) In a record signed before, on, or after the birth of the child by the individual
15 who gave birth to the child and by the individual who intends to be a parent
16 of the child.

17 (2) In an agreement entered into before a pregnancy is established, where the
18 individual who will give birth to the child and the individual who intends to
19 be a parent of the child both, at the time of the agreement, intend to be parents
20 of the child born from that pregnancy.

21 (c) Intent to Parent. – A failure to satisfy consent under subsection (b) of this section does
22 not preclude a court of competent jurisdiction from finding that consent if evidence presented to
23 the court shows the individual intending to parent resided in the same household as the child and
24 openly held out the child as that individual's child for the first two years of that child's life,
25 including any period of temporary absence.

26 **"§ 49A-5. Civil actions.**

27 (a) Violation. – No licensed healthcare provider or healthcare institution shall knowingly
28 cause the use of the healthcare provider's own human reproductive material for purposes of
29 artificial insemination without the patient's knowledge and consent.

30 (b) Civil Action. – Any patient or child born as a result of an action taken under
31 subsection (a) of this section or any parent of such child may bring a civil action in a court of
32 competent jurisdiction. A civil action brought under this section must be commenced within five
33 years after the patient knew or reasonably should have known of the act giving rise to the claim.

34 (c) Damages. – A person covered under subsection (b) of this section who proves a
35 violation of subsection (a) of this section is entitled to recover liquidated damages of fifty
36 thousand dollars (\$50,000) in addition to the actual costs of the artificial insemination and
37 reasonable attorneys' fees and costs.

38 (d) Remedies. – The remedies provided for under this section shall be in addition to any
39 other remedies provided for in any other provision of law."

40 **SECTION 2.(a)** G.S. 1-17 reads as rewritten:

41 **"§ 1-17. Disabilities.**

42 (a) A person entitled to commence an action who is under a disability at the time the
43 cause of action accrued may bring his or her action within the time limited in this Subchapter,
44 after the disability is removed, except in an action for the recovery of real property, or to make
45 an entry or defense founded on the title to real property, or to rents and services out of the real
46 property, when the person must commence his or her action, or make the entry, within three years
47 next after the removal of the disability, and at no time thereafter.

48 For the purpose of this section, a person is under a disability if the person meets one or more
49 of the following conditions:

50 (1) The person is within the age of 18 years.

51 (2) The person is insane.

1 (3) The person is incompetent as defined in G.S. 35A-1101(7) or (8).

2 (a1) For those persons under a disability on January 1, 1976, as a result of being
3 imprisoned on a criminal charge, or in execution under sentence for a criminal offense, the statute
4 of limitations shall commence to run and no longer be tolled from January 1, 1976.

5 (b) Notwithstanding the provisions of subsection (a) of this section, and except as
6 otherwise provided in subsection (c) of this section, an action on behalf of a minor for malpractice
7 arising out of the performance of or failure to perform professional services shall be commenced
8 within the limitations of time specified in G.S. 1-15(c), except that if those time limitations expire
9 before the minor attains the full age of 19 years, the action may be brought before the minor
10 attains the full age of 19 years.

11 (b1) Notwithstanding the provisions of subsections (a) and (b) of this section, and except
12 as otherwise provided in subsection (c) of this section, an action on behalf of a minor for
13 malpractice arising out of the performance of or failure to perform professional services as a
14 direct result of an act covered under Chapter 49A of the General Statutes, or for any other civil
15 action available to a minor arising out of an act covered under Chapter 49A of the General
16 Statutes, shall be commenced within five years of the minor attaining 18 years of age.

17 (c) **(See editor's note for applicability)** Notwithstanding the provisions of subsection
18 (a) and (b) of this section, an action on behalf of a minor for injuries alleged to have resulted
19 from malpractice arising out of a health care provider's performance of or failure to perform
20 professional services shall be commenced within the limitations of time specified in G.S. 1-15(c),
21 except as follows:

22 (1) If the time limitations specified in G.S. 1-15(c) expire before the minor attains
23 the full age of 10 years, the action may be brought any time before the minor
24 attains the full age of 10 years.

25 (2) If the time limitations in G.S. 1-15(c) have expired and before a minor reaches
26 the full age of 18 years a court has entered judgment or consent order under
27 the provisions of Chapter 7B of the General Statutes finding that said minor
28 is an abused or neglected juvenile as defined in G.S. 7B-101, the medical
29 malpractice action shall be commenced within three years from the date of
30 such judgment or consent order, or before the minor attains the full age of 10
31 years, whichever is later.

32 (3) If the time limitations in G.S. 1-15(c) have expired and a minor is in legal
33 custody of the State, a county, or an approved child placing agency as defined
34 in G.S. 131D-10.2, the medical malpractice action shall be commenced within
35 one year after the minor is no longer in such legal custody, or before the minor
36 attains the full age of 10 years, whichever is later.

37 (d) Notwithstanding the provisions of subsections (a), (b), (c), and (e) of this section, a
38 plaintiff may file a civil action against a defendant for claims related to sexual abuse suffered
39 while the plaintiff was under 18 years of age until the plaintiff attains 28 years of age.

40 (e) Notwithstanding the provisions of subsections (a), (b), (c), and (d) of this section, a
41 plaintiff may file a civil action within two years of the date of a criminal conviction for a related
42 felony sexual offense against a defendant for claims related to sexual abuse suffered while the
43 plaintiff was under 18 years of age."

44 **SECTION 2.(b)** Effective when this act becomes law, until five years after that date,
45 this section revives any civil action existing at the time this act becomes law otherwise
46 time-barred under G.S. 1-52, 1-17, or 1-15 as it existed immediately before the enactment of this
47 act.

48 **SECTION 3.** There is appropriated from the General Fund to the Department of
49 Health and Human Services the sum of one hundred thousand dollars (\$100,000) in nonrecurring
50 funds for the 2026-2027 fiscal year to educate the public about the implementation of the
51 provisions of this act.

1 **SECTION 4.** Section 3 of this act becomes effective July 1, 2026. The remainder of
2 this act is effective when it becomes law.