

SENATE BILL REPORT

SB 5348

As Reported by Senate Committee On:
Law & Justice, February 3, 2022

Title: An act relating to assisted reproduction.

Brief Description: Concerning assisted reproduction. [**Revised for 1st Substitute:** Concerning false representations by health care providers in assisted reproduction.]

Sponsors: Senators Stanford, Dhingra, Hasegawa, Hunt and Salomon.

Brief History:

Committee Activity: Law & Justice: 2/01/22, 2/03/22 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Makes a health care provider guilty of false representation in assisted reproduction if he or she knowingly provides false information to a patient related to gametes used or provided for assisted reproduction or the donor of the gametes.
- Authorizes the appropriate board or commission, or Department of Health to investigate any allegations of false representation, and conduct an enforcement action against the licensed health care provider.
- Makes false representation in assisted reproduction a basis for unprofessional conduct in regulatory license actions.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5348 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; McCune, Assistant Ranking Member; Kuderer, Pedersen, Salomon and Wagoner.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; Honeyford.

Staff: Tim Ford (786-7423)

Background: Fraud in Assisted Reproduction. Assisted reproduction means a method of causing pregnancy other than sexual intercourse including intrauterine or intracervical insemination, donation of gametes, donation of embryos, in-vitro fertilization and transfer of embryos, and intracytoplasmic sperm injection.

With the advent of commercially available genetic testing, many families who used assisted reproduction have discovered their doctors unsuspectingly used their own genetic material during the insemination process. While this process has only recently come to light, the practice has been ongoing for decades. A 1987 survey by the federal office of technology assessment found that approximately 2 percent of fertility doctors who responded had used their own sperm in inseminate patients. From 1974 to 1987, a single doctor in Indiana used his own genetic material in fertility treatments dozens of times resulting in at least 50 children.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): False Representation in Assisted Reproduction. A health care provider is guilty of false representation in assisted reproduction if he or she knowingly provides false information to a patient related to gametes used or provided for assisted reproduction or the donor of the gametes. The appropriate board or commission, or Department of Health may investigate any allegations of false representation, and may conduct an enforcement action against the licensed health care provider.

Unprofessional Conduct. It is unprofessional conduct for any license holder under the jurisdiction of the statutory regulations of healthcare professions to commit false representation in assisted reproduction as described above.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Applies the bill narrowly to only health care providers who engage in false representation in assisted reproduction.
- Removes new crime for assault in the third degree related to implanting gametes into a patient without written consent.
- Removes civil action for damages related to false representation.
- Provides the appropriate commission, board, or Department of Health to investigate allegations of false representation in assisted reproduction, and conduct enforcement actions.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Sometimes a fertility clinic or doctor has lied about a medical procedure or their genetic parentage. That is a legal and ethical breach. The children have very little opportunity to seek justice. The children are deprived of knowledge of parentage, medical history, and of what was intended. We need to prevent this from happening to others.

In 2019 I took an over-the-counter DNA test and found out that my biological father is my mother's doctor who abused his position as a trusted professional. Fertility fraud is more than just doctor donor fraud. Donors lie about their medical background in order to get more money. Donor conceived children may not have any right to the medical background of the donors.

Persons Testifying: PRO: Senator Derek Stanford, Prime Sponsor; Traci Portugal; Jennifer Gogarten, University of Washington Institute for Public Health Genetics; Kara Rubinstein Deyerin, Right To Know; Jana Rupnow, Jana Rupnow LPC; Sarah Chicoine; Alesia Weiss.

Persons Signed In To Testify But Not Testifying: No one.