

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 24-223

BY SENATOR(S) Fenberg and Gardner, Bridges, Buckner, Cutter, Michaelson Jenet, Mullica, Priola;
also REPRESENTATIVE(S) Snyder, Brown, Kipp, Lieder, Lindsay, Vigil.

CONCERNING LICENSING ISSUES FOR CLINICS THAT PERFORM SERVICES
RELATED TO FERTILITY.

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

SECTION 1. In Colorado Revised Statutes, 25-57-102, **amend** (2) as follows:

25-57-102. Legislative declaration. (2) Therefore, the general assembly finds that to protect the health and welfare of donor-conceived persons and their families in Colorado, it is essential to enact the "Donor-conceived Persons and Families of Donor-conceived Persons Protection Act" to regulate the use of donated gametes provided from gamete agencies, gamete banks, or fertility clinics located inside or outside of Colorado to recipients in ~~or who are residents of~~, Colorado.

SECTION 2. In Colorado Revised Statutes, 25-57-103, **amend** (3), (5), (7), (9), and (11) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

25-57-103. Definitions. As used in this article 57, unless the context otherwise requires:

(3) "Donor" means an individual who produces eggs or sperm collected by a gamete agency, gamete bank, or fertility clinic or whose eggs or sperm created an embryo received by a gamete agency, gamete bank, or fertility clinic for use in assisted reproduction by a recipient who is unknown to the donor of the gametes at the time of donation. A DONOR AND A RECIPIENT PARENT OR PARENTS ARE "UNKNOWN" TO EACH OTHER IF A GAMETE AGENCY, GAMETE BANK, OR FERTILITY CLINIC INTRODUCED OR INITIATED THE MATCH OR CONNECTION BETWEEN THE DONOR AND RECIPIENT PARENTS, AND THE DONOR AND RECIPIENT PARENT OR PARENTS DO NOT MUTUALLY EXCHANGE IDENTIFYING INFORMATION. The term "donor" only applies to the regulation of gamete agencies, gamete banks, or fertility clinics pursuant to this article 57 and does not apply for the purposes of determining parentage.

(5) "Fertility clinic" means an entity or organization LOCATED IN COLORADO that performs assisted reproduction medical procedures and receives donor gametes for a recipient ~~in or who is a resident of, Colorado,~~ and the recipient and gamete donor are unknown to each other at time of donation.

(7) "Gamete agency" means an oocyte or sperm donor matching agency that: ~~is located within or outside of Colorado and matches gamete donors with recipients in or who are residents of, Colorado, and the potential recipients and gamete donors are unknown to each other at time of donation.~~

(a) MATCHES GAMETE DONORS WITH RECIPIENTS; AND

(b) MATCHES THE POTENTIAL RECIPIENTS AND GAMETE DONORS WHO ARE UNKNOWN TO EACH OTHER AT THE TIME OF THE DONATION; AND

(c) (I) IS LOCATED WITHIN COLORADO; OR

(II) IS LOCATED OUTSIDE OF COLORADO AND MATCHES INTENDED RECIPIENTS LOCATED IN COLORADO DURING THE MATCHING PROCESS WITH GAMETE DONORS.

(9) "Gamete bank" means an entity or organization that:

(a) Collects gametes from a donor or receives embryos; and

(b) Provides gametes or embryos to a recipient parent or parents or the recipient parent's medical provider when the recipient and donor are unknown to each other at time of donation; and

(c) (I) ~~that~~ Is located within ~~or outside of~~ Colorado; OR

(II) IS LOCATED OUTSIDE OF COLORADO and provides gametes or embryos to a recipient parent or parents LOCATED in ~~or who are residents of~~, Colorado.

(11) "Matches" or "matches gametes" means the process of matching a donor with a recipient in ~~or who is a resident of~~, Colorado. A "MATCH" IS MADE BY A GAMETE AGENCY, AND A MATCH IS CONSIDERED MADE WHEN AN INTENDED RECIPIENT PARENT SELECTS A SPECIFIC POTENTIAL DONOR, OR AGREES TO RECEIVE A SPECIFIC POTENTIAL DONOR'S GAMETES, PRIOR TO THE COLLECTION OF THE GAMETES.

SECTION 3. In Colorado Revised Statutes, 25-57-105, **amend** (4) as follows:

25-57-105. Declaration regarding disclosure of identifying information and medical history - applicability. (4) A gamete agency, gamete bank, or fertility clinic located outside of Colorado shall not match INTENDED RECIPIENTS LOCATED IN COLORADO WITH DONORS, or provide gametes TO A RECIPIENT PARENT OR PARENTS LOCATED IN COLORADO OR TO THE RECIPIENT PARENT'S MEDICAL PROVIDER LOCATED IN COLORADO, from a donor who does not agree to the disclosure of the donor's identity as set forth in subsection (2) of this section. ~~to a recipient parent or parents located in or who are residents of Colorado~~

SECTION 4. In Colorado Revised Statutes, 25-57-108, **amend** (4) introductory portion as follows:

25-57-108. Written materials for recipient parents and gamete donors. (4) A gamete agency, gamete bank, or fertility clinic located outside of Colorado that either matches donors to or provides gametes or embryos to recipients in ~~or who are residents of~~, Colorado shall:

SECTION 5. In Colorado Revised Statutes, 25-57-110, **amend** (1) and (3)(a)(I) as follows:

25-57-110. License required - application - inspection - issuance, denial, suspension, or revocation - fees - civil penalties - rules. (1) On or after ~~January~~ JULY 1, 2025, a gamete agency, gamete bank, or fertility clinic shall not operate as a gamete agency, gamete bank, or fertility clinic in Colorado, or match or provide gametes or embryos to recipients in Colorado, without having first obtained a license from the department. ~~Such~~ THE license is conditioned on compliance with the applicable standards, requirements, and other provisions of this article 57 and its implementing rules.

(3)(a)(I) The department shall investigate and review each original application and each renewal application for a license to operate as a gamete agency, gamete bank, or fertility clinic. THE DEPARTMENT SHALL REQUIRE ALL APPLICANTS TO SUBMIT INFORMATION IN THE ORIGINAL AND RENEWAL APPLICATION PROCESS TO DOCUMENT COMPLIANCE WITH LICENSING REQUIREMENTS. SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT MAY, AS IT DEEMS NECESSARY, PERFORM ON-SITE INSPECTIONS OR COMPLAINT INVESTIGATIONS OF A GAMETE AGENCY, GAMETE BANK, OR FERTILITY CLINIC LOCATED OUTSIDE OF COLORADO. The department shall determine an applicant's compliance with this article 57, and the rules adopted pursuant to this article 57, for the collection and provision of gametes from donors who are unknown to a recipient at the time of the donation before issuing a license.

SECTION 6. In Colorado Revised Statutes, **amend** 25-57-111 as follows:

25-57-111. Rule-making authority. On or before ~~July 1, 2024,~~ JANUARY 1, 2025, the state board shall promulgate any rules necessary to implement this article 57. In promulgating rules, the state board shall consider and protect the interests of donor-conceived persons and families of donor-conceived persons, including lesbian, gay, bisexual, and transgender parents and donor-conceived persons and single parents.

SECTION 7. In Colorado Revised Statutes, **amend** 25-57-112 as follows:

25-57-112. Gamete agency, gamete bank, or fertility clinic fund

- created - priorities - appropriation. (1) The gamete agency, gamete bank, or fertility clinic fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money credited to the fund pursuant to section 25-57-110 AND ANY MONEY APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY. The money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs of the department in performing its duties pursuant to this article 57. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and is not credited or transferred to the general fund or any other fund.

(2) THE DEPARTMENT SHALL PRIORITIZE THE USE OF MONEY IN THE FUND FOR PROVIDING TECHNICAL AND COMPLIANCE ASSISTANCE AND PROCESSING LICENSES, YET RETAIN ADEQUATE RESOURCES FOR ENFORCEMENT.

(3) BEGINNING IN FISCAL YEAR 2025-26, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS TO THE FUND.

SECTION 8. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO