

House Bill 1038

By: Representatives Daniel of the 117<sup>th</sup>, Leverett of the 123<sup>rd</sup>, Hilton of the 48<sup>th</sup>, Vance of the 133<sup>rd</sup>, Mathiak of the 74<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to assault and battery, so as to provide for the offense of reproductive battery; to  
3 provide for definitions; to provide for penalties; to provide that consent to an anonymous  
4 donor is not a defense; to provide for the tolling of statute of limitations; to provide for civil  
5 actions; to provide for revocation of license; to provide for related matters; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 assault and battery, is amended by adding a new Code section to read as follows:

11 "16-5-30.

12 (a) As used in this Code section, the term:

13 (1) 'Donor' means a person who donates human reproductive material, whether for  
14 personal use or compensation.

15 (2) 'Human reproductive material' means:

16 (A) A human spermatozoon or ovum; or

17 (B) A human organism at any stage of development from fertilized ovum to embryo.

18 (3) 'Physician' means a physician licensed to practice medicine in this state.

19 (4) 'Recipient' means a person who receives human reproductive material from a donor.

20 (b) A physician commits the offense of reproductive battery if he or she intentionally  
21 transfers or implants into the body of a recipient human reproductive material from a donor  
22 knowing the recipient has not consented to the use of the human reproductive material from  
23 such donor.

24 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, a physician who  
25 violates this Code section shall be guilty of a felony and shall be punished by  
26 imprisonment for not less than one year nor more than five years, a fine not to exceed  
27 \$5,000.00, or both.

28 (2) A physician who violates this Code section and who is the donor of the human  
29 reproductive material shall be guilty of a felony and shall be punished by imprisonment  
30 for not less than one year nor more than 15 years, a fine not to exceed \$10,000.00, or  
31 both.

32 (d) It shall not be a defense to the offense of reproductive battery that the recipient  
33 consented to an anonymous donor.

34 (e) Notwithstanding any other provision of law, the statute of limitations for a violation  
35 under this Code section shall not begin to run until the date on which the violation is  
36 discovered.

37 (f)(1) Any aggrieved person may institute a civil action against any person in a court of  
38 competent jurisdiction seeking relief from conduct constituting a violation of this Code  
39 section.

40 (2) In a proceeding under this subsection, injunctive relief shall be granted in conformity  
41 with the principles that govern the granting of relief from injury or threatened injury in  
42 other cases, but no showing of special or irreparable injury shall have to be made.  
43 Pending final determination of a proceeding under this subsection, a temporary

44 restraining order or a preliminary injunction may be issued upon a showing of immediate  
45 danger of significant injury, including the possibility that any judgment for money  
46 damages would be difficult to execute, and, in a proceeding initiated by an aggrieved  
47 person, upon the execution of proper bond against injury for an injunction improvidently  
48 granted.

49 (3) Any person injured, directly or indirectly, by conduct constituting a violation of this  
50 Code section shall, in addition to any other relief, be authorized to recover compensatory  
51 and punitive damages, costs of litigation, and reasonable attorney's fees.

52 (g) The license of any physician who violates this Code section shall be subject to  
53 revocation by the Georgia Composite Medical Board pursuant to Chapter 34 of Title 43  
54 after notice and opportunity for hearing."

55 **SECTION 2.**

56 All laws and parts of laws in conflict with this Act are repealed.