

By: Representatives Wells-Smith, Fillingane

To: Public Health and Human Services

HOUSE BILL NO. 1354

1 AN ACT ENTITLED THE HUMAN EMBRYO PROTECTION ACT; TO MAKE IT  
2 UNLAWFUL FOR ANY LICENSED HEALTH CARE FACILITY, ASSISTED  
3 REPRODUCTIVE TECHNOLOGY MEDICAL FACILITY OR ANY EMPLOYEE OF SUCH  
4 FACILITY TO CREATE BY IN VITRO FERTILIZATION MORE THAN FOUR HUMAN  
5 EMBRYOS PER CYCLE OR FAIL TO TRANSFER INTO A WOMAN'S UTERUS THE  
6 TOTAL NUMBER OF HUMAN EMBRYOS CREATED BY IN VITRO FERTILIZATION;  
7 TO PRESCRIBE CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ACT; TO  
8 AMEND SECTION 73-25-29, MISSISSIPPI CODE OF 1972, TO MAKE  
9 VIOLATIONS OF THIS ACT UNPROFESSIONAL CONDUCT BY A PHYSICIAN FOR  
10 LICENSURE PURPOSES; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act may be known as the "Human Embryo  
13 Protection Act."

14 **SECTION 2.** The Legislature of the State of Mississippi finds  
15 that:

16 (a) Human embryos are human beings from the earliest  
17 stages of life;

18 (b) Many health care facilities that offer Assisted  
19 Reproductive Technology (ART) procedures offer the medical  
20 treatment In Vitro Fertilization, commonly known as IVF;

21 (c) IVF involves the creation of human embryos by  
22 combining a man's sperm and a woman's egg (oocyte) in a laboratory  
23 dish where fertilization occurs and then transferring the  
24 resulting human embryo into a woman's uterus to develop naturally  
25 to term;

26 (d) In many cases, IVF involves the creation of  
27 multiple human embryos, some of which are not subsequently  
28 transferred into a woman's uterus, but instead cryogenically  
29 preserved in the ART facilities' storage unit. Many of these  
30 frozen human embryos will be later discarded as medical waste or

31 transferred to outside locations for medical experimentation  
32 resulting in the human embryo's destruction;

33 (e) The State of Mississippi has a compelling interest  
34 in providing protection for human beings at the earliest stages of  
35 life, including human embryos created by the IVF process;

36 (f) This compelling interest demands that Mississippi  
37 regulate the number of human embryos that can be created by IVF  
38 and left to languish in cold storage.

39 **SECTION 3.** It shall be unlawful for any Assisted  
40 Reproductive Technology medical facility, any licensed health care  
41 facility as defined in Section 41-7-173, or any employee of any  
42 such facility to:

43 (a) Create by In Vitro Fertilization more than four (4)  
44 human embryos per assisted reproductive cycle;

45 (b) Fail to transfer into a woman's uterus the total  
46 number of human embryos created by In Vitro Fertilization up to  
47 and including four (4) human embryos per assisted reproductive  
48 cycle.

49 **SECTION 4.** (1) Any person or entity that violates Section 3  
50 of this act shall be guilty of a misdemeanor, punishable, upon  
51 conviction, by a fine of not less than Five Thousand Dollars  
52 (\$5,000.00) nor greater than Ten Thousand Dollars (\$10,000.00) and  
53 imprisonment for not more than one (1) year.

54 (2) Any violation of Section 3 of this act may be the basis  
55 for denying an application for, or denying the renewal of, or  
56 revoking any license, permit, certificate or any other form of  
57 permission required to practice or engage in any trade, profession  
58 or occupation.

59 **SECTION 5.** Section 73-25-29, Mississippi Code of 1972, is  
60 amended as follows:

61 73-25-29. The grounds for the nonissuance, suspension,  
62 revocation or restriction of a license or the denial of  
63 reinstatement or renewal of a license are:

64           (1) Habitual personal use of narcotic drugs, or any  
65 other drug having addiction-forming or addiction-sustaining  
66 liability.

67           (2) Habitual use of intoxicating liquors, or any  
68 beverage, to an extent which affects professional competency.

69           (3) Administering, dispensing or prescribing any  
70 narcotic drug, or any other drug having addiction-forming or  
71 addiction-sustaining liability otherwise than in the course of  
72 legitimate professional practice.

73           (4) Conviction of violation of any federal or state law  
74 regulating the possession, distribution or use of any narcotic  
75 drug or any drug considered a controlled substance under state or  
76 federal law, a certified copy of the conviction order or judgment  
77 rendered by the trial court being prima facie evidence thereof,  
78 notwithstanding the pendency of any appeal.

79           (5) Procuring, or attempting to procure, or aiding in,  
80 an abortion that is not medically indicated.

81           (6) Conviction of a felony or misdemeanor involving  
82 moral turpitude, a certified copy of the conviction order or  
83 judgment rendered by the trial court being prima facie evidence  
84 thereof, notwithstanding the pendency of any appeal.

85           (7) Obtaining or attempting to obtain a license by  
86 fraud or deception.

87           (8) Unprofessional conduct, which includes, but is not  
88 limited to:

89                   (a) Practicing medicine under a false or assumed  
90 name or impersonating another practitioner, living or dead.

91                   (b) Knowingly performing any act which in any way  
92 assists an unlicensed person to practice medicine.

93                   (c) Making or willfully causing to be made any  
94 flamboyant claims concerning the licensee's professional  
95 excellence.

96 (d) Being guilty of any dishonorable or unethical  
97 conduct likely to deceive, defraud or harm the public.

98 (e) Obtaining a fee as personal compensation or  
99 gain from a person on fraudulent representation a disease or  
100 injury condition generally considered incurable by competent  
101 medical authority in the light of current scientific knowledge and  
102 practice can be cured or offering, undertaking, attempting or  
103 agreeing to cure or treat the same by a secret method, which he  
104 refuses to divulge to the board upon request.

105 (f) Use of any false, fraudulent or forged  
106 statement or document, or the use of any fraudulent, deceitful,  
107 dishonest or immoral practice in connection with any of the  
108 licensing requirements, including the signing in his professional  
109 capacity any certificate that is known to be false at the time he  
110 makes or signs such certificate.

111 (g) Failing to identify a physician's school of  
112 practice in all professional uses of his name by use of his earned  
113 degree or a description of his school of practice.

114 (h) Any violation of Section 3 of House Bill No.  
115 1354, 2005 Regular Session, relating to violating human embryo In  
116 Vitro Fertilization limits and transfer limits.

117 (9) The refusal of a licensing authority of another  
118 state or jurisdiction to issue or renew a license, permit or  
119 certificate to practice medicine in that jurisdiction or the  
120 revocation, suspension or other restriction imposed on a license,  
121 permit or certificate issued by such licensing authority which  
122 prevents or restricts practice in that jurisdiction, a certified  
123 copy of the disciplinary order or action taken by the other state  
124 or jurisdiction being prima facie evidence thereof,  
125 notwithstanding the pendency of any appeal.

126 (10) Surrender of a license or authorization to  
127 practice medicine in another state or jurisdiction or surrender of  
128 membership on any medical staff or in any medical or professional

129 association or society while under disciplinary investigation by  
130 any of those authorities or bodies for acts or conduct similar to  
131 acts or conduct which would constitute grounds for action as  
132 defined in this section.

133           (11) Final sanctions imposed by the United States  
134 Department of Health and Human Services, Office of Inspector  
135 General or any successor federal agency or office, based upon a  
136 finding of incompetency, gross misconduct or failure to meet  
137 professionally recognized standards of health care; a certified  
138 copy of the notice of final sanction being prima facie evidence  
139 thereof. As used in this paragraph, the term "final sanction"  
140 means the written notice to a physician from the United States  
141 Department of Health and Human Services, Officer of Inspector  
142 General or any successor federal agency or office, which  
143 implements the exclusion.

144           (12) Failure to furnish the board, its investigators or  
145 representatives information legally requested by the board.

146           (13) Violation of any provision(s) of the Medical  
147 Practice Act or the rules and regulations of the board or of any  
148 order, stipulation or agreement with the board.

149           In addition to the grounds specified above, the board shall  
150 be authorized to suspend the license of any licensee for being out  
151 of compliance with an order for support, as defined in Section  
152 93-11-153. The procedure for suspension of a license for being  
153 out of compliance with an order for support, and the procedure for  
154 the reissuance or reinstatement of a license suspended for that  
155 purpose, and the payment of any fees for the reissuance or  
156 reinstatement of a license suspended for that purpose, shall be  
157 governed by Section 93-11-157 or 93-11-163, as the case may be.  
158 If there is any conflict between any provision of Section  
159 93-11-157 or 93-11-163 and any provision of this chapter, the  
160 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
161 shall control.

162           **SECTION 6.** The provisions of this act are severable, and if  
163 any provision, word, phrase or clause of the act or the  
164 application thereof to any person shall be held invalid, such  
165 invalidity shall not affect the validity of the remaining portions  
166 of this act.

167           **SECTION 7.** This act shall take effect and be in force from  
168 and after July 1, 2005.