

SUBSTITUTE FOR  
SENATE BILL NO. 649

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding sections 2694 and 2695.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 2694. (1) A PHYSICIAN OR HEALTH FACILITY OR AGENCY THAT  
2 PROVIDES HUMAN IN VITRO FERTILIZATION SERVICES SHALL NOT DELIVER,  
3 TRANSMIT, OR OTHERWISE CONVEY OOCYTES OR EMBRYOS TO ANY PERSON WHO  
4 CONDUCTS RESEARCH AS PERMITTED UNDER SECTION 2685 WITHOUT FIRST  
5 OBTAINING THE VOLUNTARY AND WRITTEN INFORMED CONSENT FROM THE  
6 INDIVIDUAL WHO OBTAINED THE SERVICES. IN A MANNER THAT COMPLIES  
7 WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF  
8 1996, PUBLIC LAW 104-191, A PHYSICIAN OR HEALTH FACILITY OR AGENCY  
9 SHALL TRANSMIT A COPY OF THE WRITTEN INFORMED CONSENT OBTAINED  
10 UNDER THIS SECTION AT THE TIME IT DELIVERS, TRANSMITS, OR OTHERWISE

1 CONVEYS OOCYTES OR EMBRYOS TO THE PERSON WHO CONDUCTS THE RESEARCH.  
2 IN ADDITION TO ANY INFORMATION REQUIRED TO BE PROVIDED BY THE  
3 ACCEPTED STANDARD OF CARE, THE DOCUMENTED INFORMED CONSENT SHALL  
4 INCLUDE THE FOLLOWING INFORMATION, AS APPLICABLE:

5 (A) THE OOCYTES AND EMBRYOS ARE IN EXCESS OF THE CLINICAL NEED  
6 OF THE INDIVIDUAL AND WOULD OTHERWISE BE DISCARDED.

7 (B) THE OOCYTES AND EMBRYOS ARE NOT SUITABLE FOR IMPLANTATION  
8 AND WOULD OTHERWISE BE DISCARDED.

9 (C) THAT AN INDIVIDUAL WHO CONSENTS TO THE DONATION OF OOCYTES  
10 OR EMBRYOS MAY WITHDRAW THAT CONSENT AT ANY TIME UP TO THE TIME THE  
11 OOCYTES OR EMBRYOS ARE USED IN RESEARCH.

12 (2) A PHYSICIAN OR HEALTH FACILITY OR AGENCY THAT PROVIDES  
13 HUMAN IN VITRO FERTILIZATION SERVICES IN THIS STATE SHALL NOT  
14 PROVIDE THE SERVICES WITHOUT FIRST INFORMING THE INDIVIDUAL SEEKING  
15 THE SERVICES OF ALL OF THE FOLLOWING:

16 (A) THAT MICHIGAN LAW PERMITS RESEARCH USING LIVE HUMAN  
17 EMBRYOS AND THAT, SUBJECT TO CERTAIN REQUIREMENTS, EXCESS HUMAN  
18 EMBRYOS MAY BE DONATED FOR THIS RESEARCH.

19 (B) THE LEGAL PROHIBITIONS ON PERSONS OFFERING OR PROVIDING  
20 ANY VALUABLE CONSIDERATION IN EXCHANGE FOR PROVIDING EXCESS OOCYTES  
21 OR EMBRYOS TO ANY OTHER PERSON.

22 (C) OPTIONS AVAILABLE TO CREATE, UTILIZE, OR STORE OOCYTES OR  
23 EMBRYOS IN A QUANTITY MOST ACCEPTABLE TO THE INDIVIDUAL SEEKING THE  
24 IN VITRO FERTILIZATION SERVICES AND THE POTENTIAL OR EXPECTED  
25 FINANCIAL OBLIGATIONS PER ANNUM IF THE INDIVIDUAL CHOOSES TO  
26 CRYOPRESERVE AND STORE EXCESS OOCYTES OR EMBRYOS.

27 (3) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A

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1 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF  
2 NOT LESS THAN \$5,000.00 PER VIOLATION.

3 SEC. 2695. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A  
4 PHYSICIAN OR HEALTH FACILITY OR AGENCY THAT PROVIDES HUMAN IN VITRO  
5 FERTILIZATION SERVICES SHALL ANNUALLY SUBMIT A REPORT AS DESCRIBED  
6 IN SUBSECTION (2) ON FORMS PRESCRIBED AND PROVIDED BY THE  
7 DEPARTMENT, USING THE UNIQUE IDENTIFIER PROVIDED BY THE DEPARTMENT,  
8 AND AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT. IF  
9 THE PHYSICIAN OR HEALTH FACILITY OR AGENCY IS REQUIRED TO FILE A  
10 REPORT UNDER FEDERAL LAW, RULE, REGULATION, OR GUIDELINE APPLICABLE  
11 TO RESEARCH USING LIVE HUMAN EMBRYOS, WHICH REPORT CONTAINS ALL OF  
12 THE INFORMATION REQUIRED TO BE REPORTED UNDER SUBSECTION (2), THE  
13 PERSON MAY FILE THE REPORT REQUIRED UNDER FEDERAL LAW, RULE,  
14 REGULATION, OR GUIDELINE TO COMPLY WITH THIS SECTION. <<A  
PHYSICIAN OR HEALTH FACILITY OR AGENCY THAT PROVIDES HUMAN IN VITRO  
FERTILIZATION SERVICES IS NOT REQUIRED TO FILE THE REPORT REQUIRED  
UNDER THIS SUBSECTION UNTIL THE DEPARTMENT HAS DEVELOPED AND MADE  
THE FORM AVAILABLE UNDER SUBSECTION (3).>>

15 (2) A PHYSICIAN OR HEALTH FACILITY OR AGENCY THAT PROVIDES  
16 HUMAN IN VITRO FERTILIZATION SERVICES SHALL COLLECT AND REPORT THE  
17 FOLLOWING INFORMATION TO THE DEPARTMENT AS REQUIRED UNDER  
18 SUBSECTION (1):

19 (A) NUMBER OF PATIENTS ON WHOM OOCYTE EXTRACTIONS WERE  
20 ATTEMPTED.

21 (B) NUMBER OF PATIENTS FROM WHOM OOCYTES WERE SUCCESSFULLY  
22 EXTRACTED.

23 (C) NUMBER OF OOCYTES EXTRACTED FROM ALL PATIENTS.

24 (D) NUMBER AND TYPE OF COMPLICATIONS EXPERIENCED BY PATIENTS  
25 UNDERGOING OOCYTE EXTRACTION.

26 (E) NUMBER OF OOCYTES RETAINED IN STORAGE.

27 (F) NUMBER OF OOCYTES DISCARDED BEFORE FERTILIZATION ATTEMPTS.

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1 (G) NUMBER OF OOCYTES EXPOSED TO SPERM FOR FERTILIZATION.

2 (H) NUMBER OF EMBRYOS SUCCESSFULLY CREATED.

3 (I) NUMBER OF EMBRYOS UNDERGOING GENETIC SCREENING.

4 (J) NUMBER OF EMBRYOS DISCARDED BEFORE IMPLANTATION ATTEMPTS.

5 (K) NUMBER OF EMBRYOS INTENTIONALLY TERMINATED IN UTERO AFTER  
6 PREGNANCY HAS BEEN ESTABLISHED.

7 (L) NUMBER OF INFANTS WITH DISABILITIES OR DEFORMITIES  
8 DETECTABLE AT BIRTH.

9 (M) NUMBER OF EMBRYOS THAWED FOR IMPLANTATION OR DONATION.

10 (N) NUMBER OF EMBRYOS VIABLE AFTER THAWING PROCESS.

11 (O) NUMBER OF EMBRYOS DONATED FOR IMPLANTATION.

12 (P) NUMBER OF EMBRYOS DONATED FOR RESEARCH AND THE HEALTH  
13 FACILITY OR AGENCY, ACADEMIC INSTITUTION, OR OTHER PERSON TO WHICH  
14 THEY WERE DONATED.

15 (Q) NUMBER OF EMBRYOS DISCARDED AFTER STORAGE AT THE DIRECTION  
16 OF THE INDIVIDUAL SEEKING IN VITRO FERTILIZATION SERVICES.

17 (R) NUMBER OF EMBRYOS HELD IN STORAGE AT THE BEGINNING AND END  
18 OF THE REPORTING YEAR.

19 (3) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

20 (A) <<ON OR BEFORE THE EXPIRATION OF 1 YEAR AFTER THE  
EFFECTIVE DATE OF THIS SECTION,>> DEVELOP AND MAKE AVAILABLE IN  
PRINT AND ELECTRONIC FORMAT

21 A FORM FOR PHYSICIANS AND HEALTH FACILITIES AND AGENCIES TO UTILIZE  
22 IN FILING THE REPORT REQUIRED IN SUBSECTION (1).

23 (B) MAKE AVAILABLE ANNUALLY IN AGGREGATE A STATISTICAL REPORT  
24 SUMMARIZING THE INFORMATION SUBMITTED IN EACH INDIVIDUAL REPORT  
25 REQUIRED BY THIS SECTION. THE DEPARTMENT SHALL NOT IDENTIFY THE  
26 PHYSICIAN OR HEALTH FACILITY OR AGENCY TO WHOM THE SPECIFIC  
27 INFORMATION APPLIES.

1 (C) DESTROY EACH REPORT REQUIRED BY THIS SECTION AND EACH COPY  
2 OF THE REPORT AFTER RETAINING THE REPORT FOR 5 YEARS AFTER THE DATE  
3 THE REPORT IS RECEIVED.

4 (D) ESTABLISH A PROGRAM THAT WILL ISSUE TO EACH PERSON  
5 REQUIRED TO SUBMIT A REPORT UNDER SUBSECTION (1) A UNIQUE  
6 IDENTIFIER UNDER WHICH THE PERSON IS TO SUBMIT THE REPORT.

7 (4) A PERSON SUBMITTING A REPORT UNDER SUBSECTION (1) SHALL  
8 NOT INCLUDE THE NAME, COMMON IDENTIFIERS SUCH AS SOCIAL SECURITY  
9 NUMBER OR MOTOR VEHICLE OPERATOR'S LICENSE NUMBER, OR OTHER  
10 INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT POSSIBLE TO IDENTIFY  
11 IN ANY MANNER OR UNDER ANY CIRCUMSTANCES AN INDIVIDUAL WHO HAS  
12 OBTAINED IN VITRO FERTILIZATION SERVICES. A STATE AGENCY SHALL NOT  
13 COMPARE DATA IN AN ELECTRONIC OR OTHER INFORMATION SYSTEM FILE WITH  
14 DATA IN ANY OTHER ELECTRONIC OR OTHER INFORMATION SYSTEM THAT WOULD  
15 RESULT IN IDENTIFYING IN ANY MANNER OR UNDER ANY CIRCUMSTANCES AN  
16 INDIVIDUAL WHO HAS OBTAINED IN VITRO FERTILIZATION SERVICES. A  
17 PERSON SHALL NOT MAINTAIN STATISTICAL INFORMATION THAT MAY REVEAL  
18 THE IDENTITY OF AN INDIVIDUAL WHO HAS OBTAINED IN VITRO  
19 FERTILIZATION SERVICES.

20 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON  
21 SHALL NOT DISCLOSE CONFIDENTIAL IDENTIFYING INFORMATION ABOUT AN  
22 INDIVIDUAL WHO OBTAINS IN VITRO FERTILIZATION SERVICES. THE REPORTS  
23 REQUIRED UNDER THIS SECTION ARE STATISTICAL REPORTS TO BE USED ONLY  
24 FOR MEDICAL AND HEALTH PURPOSES AND SHALL NOT BE INCORPORATED INTO  
25 THE PERMANENT OFFICIAL RECORDS OF THE SYSTEM OF VITAL STATISTICS.  
26 EXCEPT FOR THE STATISTICAL REPORT UNDER SUBSECTION (3) (B),  
27 INFORMATION SUBMITTED TO THE DEPARTMENT BY A PHYSICIAN OR HEALTH

1 FACILITY OR AGENCY UNDER THIS SECTION IS CONFIDENTIAL AND IS NOT  
2 SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM OF  
3 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, EXCEPT THAT  
4 DISCLOSURE OF THAT INFORMATION MAY BE MADE IN ANY OF THE FOLLOWING  
5 CIRCUMSTANCES:

6 (A) WITH THE WRITTEN CONSENT OF THE PHYSICIAN OR HEALTH  
7 FACILITY OR AGENCY.

8 (B) PURSUANT TO A COURT PROCEEDING.

9 (C) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF THE  
10 DEPARTMENT.

11 (D) THE DISCLOSURE IS MADE TO AN AGENT OR EMPLOYEE OF A STATE  
12 OR THE FEDERAL GOVERNMENT AUTHORIZED BY LAW TO SEE OR REVIEW THE  
13 INFORMATION.

14 (6) A PERSON WHO VIOLATES THIS SECTION BY DISCLOSING  
15 CONFIDENTIAL IDENTIFYING INFORMATION IS GUILTY OF A FELONY  
16 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF  
17 NOT MORE THAN \$5,000.00, OR BOTH. A PERSON WHO VIOLATES THIS  
18 SECTION BY FAILING TO FILE A REQUIRED REPORT IS RESPONSIBLE FOR A  
19 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF  
20 NOT LESS THAN \$5,000.00 PER VIOLATION.

21 Enacting section 1. This amendatory act does not take effect  
22 unless Senate Bill No. 647 of the 95th Legislature is enacted into  
23 law.