

2024 Regular Session

HOUSE BILL NO. 833

BY REPRESENTATIVES DAVIS, BOYD, MANDIE LANDRY, AND NEWELL AND
SENATOR MIZELL

CIVIL/LAW: Provides relative to in vitro fertilization

1 AN ACT

2 To amend and reenact R.S. 9:121, 124, 126, 128, 129, and 132, relative to in vitro
3 fertilization; to provide a definition; to provide classification; to establish viability
4 of an in vitro fertilized human ovum; to provide qualifications; to provide immunity
5 from civil liability and criminal prosecution; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:121, 124, 126, 128, 129, and 132 are hereby amended and
8 reenacted to read as follows:

9 §121. Human embryo; definition

10 A "human embryo" for the purposes of this Chapter is an in vitro fertilized
11 human ovum, ~~with certain rights granted by law~~, composed of one or more living
12 human cells and human genetic material ~~so unified and organized~~ that it ~~will~~ may
13 develop in utero into an unborn child.

14 * * *

15 §124. ~~Legal status~~ Identification and confidentiality

16 As a juridical person, the in vitro fertilized human ovum shall be given an
17 identification by the medical facility for use within the medical facility ~~which entitles~~
18 ~~such ovum to sue or be sued~~. The confidentiality of the in vitro ~~fertilization patient~~
19 fertilized ovum and the patients from which it came shall be maintained.

20 * * *

1 §126. Ownership

2 An in vitro fertilized human ovum ~~is a~~ represents the potential for
3 development into a biological human being which is under control of the patient and
4 is not the property of the physician ~~which~~ who acts as an agent of fertilization, or the
5 facility which employs him or the donors of the sperm and ovum. If the in vitro
6 fertilization patients express their identity, then their rights as parents as provided
7 under the Louisiana Civil Code will be preserved. If the in vitro fertilization patients
8 fail to express their identity, then the physician shall be deemed to be temporary
9 guardian of the in vitro fertilized human ovum until adoptive implantation can occur.
10 A court in the parish where the in vitro fertilized ovum is located may appoint a
11 curator, upon motion of the in vitro fertilization patients, their heirs, or physicians
12 who caused in vitro fertilization to be performed, to protect the in vitro fertilized
13 human ovum's rights.

14 * * *

15 §128. Qualifications

16 Only medical facilities meeting the standards of the ~~American Fertility~~
17 ~~Society~~ American Society for Reproductive Medicine and the American College of
18 Obstetricians and Gynecologists and directed by a medical doctor licensed to
19 practice medicine in this state and possessing specialized training and skill in in vitro
20 fertilization also in conformity with the standards established by the ~~American~~
21 ~~Fertility Society or the American College of Obstetricians and Gynecologists shall~~
22 ~~cause the in vitro fertilization of a human ovum to occur. No person shall engage in~~
23 ~~in vitro fertilization procedures unless qualified as provided in this Section~~ American
24 Society for Reproductive Medicine and the American College of Obstetricians and
25 Gynecologists as evidenced by double board certification or eligibility by the
26 American Board of Obstetrics and Gynecology in both Obstetrics and Gynecology
27 as well as Reproductive Endocrinology and Infertility.

Present law (R.S. 9:121) provides that a "human embryo" is an in vitro fertilized human ovum with certain rights granted by law and composed of one or more living human cells and human genetic material so unified and organized that it will develop in utero into an unborn child.

Proposed law changes the definition of "human embryo" to an in vitro fertilized human ovum that may develop in utero to an unborn child. Proposed law also clarifies language regarding the description of human embryos.

Present law (R.S. 9:124) classifies a human embryo as a juridical person that can sue or be sued. Present law also provides that the in vitro fertilized human ovum shall be given an identification by the medical facility for use within the medical facility and provides confidentiality of the in vitro fertilization patient.

Proposed law retains present law and removes redundant language.

Present law (R.S. 9:126) provides that an in vitro fertilized human ovum is a biological human being.

Proposed law changes present law by providing that an in vitro fertilized human ovum represents the potential for development into a biological human being which is under control of the patient and is not the property of the physician.

Present law (R.S. 9:128) provides qualifications for medical professionals and facilities engaged in in vitro fertilization procedures.

Proposed law retains present law but updates the licensing and training entities.

Present law (R.S. 9:129) provides that an in vitro fertilized human ovum that fails to develop further over a 36 hour period except when the embryo is in a state of cryopreservation, is considered non-viable, and is not considered a juridical person.

Proposed law changes present law by providing that a viable in vitro fertilized human ovum is one that is considered ethically or clinically appropriate to transfer as defined by the guidelines set by the American Society for Reproductive Medicine and that a non-viable in vitro fertilized human ovum is not a juridical person.

Present law (R.S. 9:132) provides that any physician, hospital, in vitro fertilization clinic, or their agent who acts in good faith shall not be held strictly liable or liable in any action relating to succession rights and inheritance for the screening, collection, conservation, preparation, transfer, or cryopreservation of the human ovum fertilized in vitro for transfer to the human uterus.

Present law (R.S. 9:132) also provides that any immunity granted by present law is applicable only to an action brought on behalf of the in vitro fertilized human ovum as a juridical person.

Proposed law changes present law by providing that no individual or entity shall be subject to criminal prosecution or civil liability for any directions provided by the patient to the medical staff or facility or for actions performed in the normal course of business that resulted in an in vitro fertilized ovum becoming non viable.

(Amends R.S. 9:121, 124, 126, 128, 129, and 132)