

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 473 – HB 401

March 18, 2013

SUMMARY OF ORIGINAL BILL: Establishes the rights and responsibilities of parties to an embryo relinquishment or legal transfer of rights to an embryo. Requires a written contract between each legal embryo custodian and each recipient intended parent prior to embryo transfer for the legal transfer of rights to an embryo and to any child that may result from the embryo transfer. “Embryo transfer” is defined as the medical procedure of physically placing an embryo into the uterus of a female. The contract may include a written waiver of notice by the legal embryo custodian. If the embryo was created using donor gametes, the sperm or oocyte donors who irrevocably relinquished their rights in connection with in vitro fertilization are not entitled to any notice of the embryo relinquishment and their consent to the embryo relinquishment is not required. The legal transfer of rights to an embryo will be considered complete, and the embryo transfer authorized, upon embryo relinquishment through written contract by each legal embryo custodian. A child born to a recipient intended parent as the result of embryo relinquishment is presumed to be the legal child of the recipient intended parent if each legal embryo custodian and each recipient intended parent has entered into a written contract.

A recipient intended parent may petition for an expedited order of adoption or parentage prior to or following the birth of a child. The petition must be filed in the county in which any petitioner or any respondent resides. When a court is considering a petition for an expedited order of adoption or parentage, the written contract between each legal embryo custodian and each recipient intended parent must be accepted by the court in lieu of a surrender of rights; the court is required to give effect to any written waiver of notice and service in the legal proceedings for adoption or parentage; and the court may, in its discretion, waive such technical requirements as the court deems proper in the interest of justice, to promote the stability of embryo transfers, and to promote the interest of children who may be born following such embryo transfers. If a court finds that the petition meets the requirements of the bill, an expedited order of adoption or parentage must be issued and the order will be a final order. The order will terminate any future parental rights and responsibilities of any past or present legal embryo custodian or metete donor in a child that results from the embryo transfer and will vest future parental rights and responsibilities relative to the child in the recipient intended parent.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004348): Deletes all language after the enacting clause. Specifies that the intent of the bill is to provide a single means to establish parentage of a child born of a donated embryo transfer to a recipient intended parent. Establishes the rights and

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responsibilities of parties to an embryo relinquishment or legal transfer of rights to an embryo. A legal embryo custodian may relinquish all rights and responsibilities relative to an embryo prior to embryo transfer. A written contract between legal embryo custodians and the embryo transfer clinic, or a legal embryo custodian and each recipient intended parent, as appropriate, is required when establishing embryo parentage prior to embryo transfer for the legal transfer of rights to an embryo and to any child that may result from the embryo transfer. The contract must be signed by the parties to the contract in the presence of a notary public. "Embryo transfer" is defined as the medical procedure of physically placing an embryo into the uterus of a female recipient intended parent. "Embryo parentage" is defined as the acceptance of rights and responsibilities for an embryo by a recipient intended parent. If the embryo was created using donor gametes, the sperm or oocyte donors who irrevocably relinquished their rights in connection with in vitro fertilization are not entitled to any notice of the embryo relinquishment and their consent to the embryo relinquishment is not required. Upon relinquishment of rights pursuant to contract by the legal embryo custodians, the legal transfer of rights to an embryo will be considered complete, and the embryo transfer authorized, at the time of thawing or such other time as the parties may agree. A child born to a recipient intended parent as the result of embryo relinquishment is presumed to be the legal child of the recipient intended parent if each legal embryo custodian and each recipient intended parent has entered into a written contract as provided in the bill. Any and all prior legal embryo custodians whose donation of an embryo has resulted in the birth of a child to a recipient intended parent will have no rights or responsibilities with such child and of the child to them.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from original fiscal note.

Assumptions for the bill as amended:

- According to the Department of Children's Services and the Department of Human Services, the bill will not affect programs or operations of the departments. The fiscal impact on the departments will be not significant.
- According to the Administrative Office of the Courts, the fiscal impact on the courts will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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