



January 26, 2012

# SENATE BILL No. 201

DIGEST OF SB 201 (Updated January 25, 2012 12:35 pm - DI 104)

**Citations Affected:** IC 16-18; IC 35-46.

**Synopsis:** Transfer of human organisms exemption. Exempts from the crime of unlawful transfer of a human organism certain types of payments to a fertility clinic that meets specified requirements. Provides that not more than \$4,000 may be paid to a woman donor or exempted fertility clinic for recovery time. (Current law provides that not more than \$3,000 may be paid to a woman donor for recovery time.) Establishes a Class C felony for a person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified third party for purposes of embryonic stem cell research.

**Effective:** July 1, 2012.

**Miller**

January 4, 2012, read first time and referred to Committee on Health and Provider Services.  
January 25, 2012, amended, reported favorably — Do Pass.

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SB 201—LS 6523/DI 104+



January 26, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 201

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-128.5, AS ADDED BY P.L.126-2005,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 128.5. (a) "Fetal stem cell" means any of the  
4 following types of stem cells taken from a fetus that was either  
5 miscarried or stillborn from any of the following sources:  
6 (1) Placenta.  
7 (2) Umbilical cord.  
8 (3) Amniotic fluid.  
9 (4) Fetal tissue.  
10 (b) The term does not include any cells that are taken as the result  
11 of an abortion. ~~unless the cells are permissible for use under applicable~~  
12 ~~federal law.~~  
13 SECTION 2. IC 35-46-5-3, AS ADDED BY P.L.126-2005,  
14 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2012]: Sec. 3. (a) **As used in this section, "qualified third**  
16 **party" means a fertility clinic or similar medical facility that:**  
17 (1) **is accredited by an entity approved by the medical**

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- 1           **licensing board;**  
 2           **(2) is registered under 21 CFR 1271 with the United States**  
 3           **Food and Drug Administration; and**  
 4           **(3) employs a physician licensed under IC 25-22.5 who:**  
 5               **(A) is board certified in obstetrics and gynecology; and**  
 6               **(B) performs oocyte cryopreservation at the facility.**  
 7           **(a) (b) A person who knowingly or intentionally purchases or sells**  
 8           **a human ovum, zygote, embryo, or fetus commits unlawful transfer of**  
 9           **a human organism, a Class C felony.**  
 10          **(b) (c) This section does not apply to the following:**  
 11           **(1) The transfer to or receipt by either a woman donor of an ovum**  
 12           **or a qualified third party of an amount for:**  
 13               **(A) earnings lost due to absence from employment;**  
 14               **(B) travel expenses;**  
 15               **(C) hospital expenses;**  
 16               **(D) medical expenses; and**  
 17               **(E) recovery time in an amount not to exceed three four**  
 18               **thousand dollars (~~\$3,000~~); (\$4,000);**  
 19           **concerning a treatment or procedure to enhance human**  
 20           **reproductive capability through in vitro fertilization, gamete**  
 21           **intrafallopian transfer, or zygote intrafallopian transfer.**  
 22           **(2) The following types of stem cell research:**  
 23               **(A) Adult stem cell.**  
 24               **(B) Fetal stem cell (as defined in IC 16-18-2-128.5), as long**  
 25               **as the biological parent has given written consent for the use**  
 26               **of the fetal stem cells.**  
 27           **(d) Any person who recklessly, knowingly, or intentionally uses**  
 28           **a human embryo created with an ovum provided to a qualified**  
 29           **third party under this section for purposes of embryonic stem cell**  
 30           **research commits unlawful use of an embryo, a Class C felony.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 201, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-18-2-128.5, AS ADDED BY P.L.126-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 128.5. (a) "Fetal stem cell" means any of the following types of stem cells taken from a fetus that was either miscarried or stillborn from any of the following sources:

- (1) Placenta.
- (2) Umbilical cord.
- (3) Amniotic fluid.
- (4) Fetal tissue.

(b) The term does not include any cells that are taken as the result of an abortion. ~~unless the cells are permissible for use under applicable federal law.~~"

Page 2, line 12, delete "," and insert "**(as defined in IC 16-18-2-128.5),**".

Page 2, after line 13, begin a new paragraph and insert:

**"(d) Any person who recklessly, knowingly, or intentionally uses a human embryo created with an ovum provided to a qualified third party under this section for purposes of embryonic stem cell research commits unlawful use of an embryo, a Class C felony."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 201 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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