

07 SB148/AP

Senate Bill 148

By: Senators Shafer of the 48th, Staton of the 18th, Thomas of the 54th, Rogers of the 21st, Heath of the 31st and others

**AS PASSED**

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to provide a short title; to provide legislative intent and findings; to provide definitions; to create the Newborn Umbilical Cord Blood Bank for postnatal tissue and fluid; to provide for donations and information concerning donations; to provide for the creation of the Georgia Commission for Saving the Cure and the membership, appointment, terms of office, and duties of such commission; to provide for certain funding mechanisms; to amend Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, so as to authorize taxpayers to make certain contributions through the income tax payment and refund process; to provide that stem cell research funds shall only be used for certain purposes; to provide an effective date and for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known and may be cited as the "Saving the Cure Act." This Act may also be known and cited as "Keone's Law."

**SECTION 2.**

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Chapter 46 to read as follows:

"CHAPTER 46

31-46-1.

The General Assembly finds and declares that it shall be the public policy of this state to encourage the donation, collection, and storage of stem cells collected from postnatal tissue and fluid and to make such stem cells available for medical research and treatment; to promote principled and ethical stem cell research; and to encourage stem cell research with immediate clinical and medical applications.

31-46-2.

As used in this chapter, the term:

- (1) 'Amniotic fluid' means the fluid inside the amnion.
- (2) 'Permitted stem cell research' means stem cell research permitted under federal law and Senate Resolution 30, the 'Hope Offered through Principled and Ethical Stem Cell Research Act,' as approved by the United States Senate on April 11, 2007.
- (3) 'Placenta' means the organ that forms on the inner wall of the human uterus during pregnancy.
- (4) 'Postnatal tissue and fluid' means the placenta, umbilical cord, and amniotic fluid expelled or extracted in connection with the birth of a human being.
- (5) 'Stem cells' means unspecialized or undifferentiated cells that can self-renew and have the potential to differentiate into specialized cell types.
- (6) 'Umbilical cord' means the gelatinous tissue and blood vessels connecting an unborn human being to the placenta.

31-46-3.

(a) Not later than June 30, 2008, the Georgia Commission for Saving the Cure, as created in Code Section 31-46-4, shall establish a network of postnatal tissue and fluid banks in partnership with one or more public or private colleges or universities, public or private hospitals, nonprofit organizations, or private firms in this state for the purpose of collecting and storing postnatal tissue and fluid. The bank network, which shall be known as the Newborn Umbilical Cord Blood Bank, shall make such tissue and fluid available for medical research and treatment in accordance with this chapter.

(b) The Georgia Commission for Saving the Cure shall develop a program to educate pregnant patients with respect to the banking of postnatal tissue and fluid. The program shall include:

- (1) Notice of the existence of the Newborn Umbilical Cord Blood Bank;
- (2) An explanation of the difference between public and private banking programs;
- (3) The medical process involved in the collection and storage of postnatal tissue and fluid;
- (4) The current and potential future medical uses of stored postnatal tissue and fluid;
- (5) The benefits and risks involved in the banking of postnatal tissue and fluid; and
- (6) The availability and cost of storing postnatal tissue and fluid in public and private umbilical cord blood banks.

(c) Beginning June 30, 2009, all physicians and hospitals in this state shall inform pregnant patients of the full range of options for donation of postnatal tissue and fluids no later than 30 days from the commencement of the patient's third trimester of pregnancy or at the first consultation between the attending physician or the hospital, whichever is later; provided, however, that this subsection shall not be construed to require the participation of any physician who objects to the transfusion or transplantation of blood on the basis of bona fide religious beliefs.

(d) Nothing in this Code section shall be construed to prohibit a person from donating postnatal tissue or fluid to a private blood and tissue bank or storing postnatal tissue or fluid with a private blood and tissue bank.

(e) Any college or university, hospital, nonprofit organization, or private firm participating in the Newborn Umbilical Cord Blood Bank shall have or be subject to an institutional review board which shall be available on an ongoing basis to review the research procedures and conduct of any person desiring to conduct research with postnatal tissue and fluid from the bank. The institutional review board shall establish procedures to protect and ensure the privacy rights of postnatal tissue and fluid donors consistent with applicable federal guidelines.

31-46-4.

(a) There is created the Georgia Commission for Saving the Cure which shall consist of 15 members appointed as provided in this Code section. The commission shall be assigned to the Division of Public Health of the Department of Human Resources for administrative purposes only, as prescribed in Code Section 50-4-3.

(b) Seven members shall be appointed by the Governor. The Governor shall appoint four members to serve initial terms of three years and three members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years. The Governor shall designate one of the persons so appointed to be the chairperson of the commission. If the chief executive officer of the Georgia Research Alliance is not appointed by the Governor or any other appointing authority to serve on the commission, he or she shall serve as an advisory member.

(c) Four members shall be appointed by the Lieutenant Governor or, if the Lieutenant Governor belongs to a political party other than the political party to which a majority of the members of the Senate belong, by the Senate Committee on Assignments. Of these four members, there shall be at least one of each of the following: a physician licensed to practice medicine in this state; a recognized medical ethicist with an accredited degree in medicine, medical ethics, or theology; a medical researcher in permitted stem cell research; and an attorney with experience in health policy law. The Lieutenant Governor or Senate Committee on Assignments shall appoint two members to serve initial terms of three years and two members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years.

(d) Four members shall be appointed by the Speaker of the House of Representatives. Of these four members, there shall be at least one of each of the following: a physician licensed to practice medicine in this state; a recognized medical ethicist with an accredited degree in medicine, medical ethics, or theology; a medical researcher in permitted stem cell research; and an attorney with experience in health policy law. The Speaker of the House of Representatives shall appoint two members to serve initial terms of three years and two members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years.

(e) Members of the commission shall be eligible to succeed themselves. The initial terms of office shall begin on July 1, 2007. Appointments shall be made by the respective appointing authorities no later than June 15, 2007. Thereafter, appointments of successors shall be made by the respective appointing authority no later than June 1 of the year in

which the member's term of office expires. Vacancies shall be filled for the unexpired term by the respective appointing authority.

(f) The commission shall meet at least four times per year at the call of the chairperson or upon the request of at least seven of its members.

(g) The commission shall have the following duties and responsibilities:

(1) To investigate the implementation of this chapter and to recommend any improvements to the General Assembly;

(2) To make available to the public the records of all meetings of the commission and of all business transacted by the commission;

(3) To oversee the operations of the Newborn Umbilical Cord Blood Bank established in Code Section 31-46-3, including approving all fees established to cover administration, collection, and storage costs;

(4) To undertake the Saving the Cure initiative by promoting awareness of the Newborn Umbilical Cord Blood Bank and encouraging donation of postnatal tissue and fluid to the bank;

(5) To ensure the privacy of persons who donate postnatal tissue and fluid to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a) of Code Section 31-46-3 consistent with applicable federal guidelines;

(6) To develop a plan for making postnatal tissue and fluid collected under the Saving the Cure initiative available for medical research and treatment and to ensure compliance with all relevant national practice and quality standards relating to such use;

(7) To develop a plan for private storage of postnatal tissue and fluid for medical treatment or to make potential donors aware of private storage options for said tissue and fluid as deemed in the public interest;

(8) To participate in the National Cord Blood Program and to register postnatal tissue and fluid collected with registries operating in connection with the program;

(9) To make grants and enter into agreements to support permitted stem cell research with immediate and clinical medical applications;

(10) To employ such staff and to enter into such contracts as may be necessary to fulfill its duties and responsibilities under this chapter subject to funding by the General Assembly; and

(11) To report annually to the General Assembly in December of each year concerning the activities of the commission with recommendations for any legislative changes or funding necessary or desirable to fulfill the goals of this chapter.

(h) The commission shall provide for protection from disclosure of the identity of persons making donations to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a) of Code Section 31-46-3.

(i) The commission may request additional funding from any additional source including, but not limited to, federal and private grants.

(j) The commission may establish a separate not for profit organization or foundation for the purposes of supporting the Newborn Umbilical Cord Blood Bank established pursuant to Code Section 31-46-3.

31-46-5.

Any public funds expended for stem cell research shall conform to the requirements set forth in federal law and Senate Resolution 30, the 'Hope Offered through Principled and Ethical Stem Cell Research Act,' as approved by the United States Senate on April 11, 2007."

### **SECTION 3.**

Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, is amended by adding a new Code section to read as follows:

"48-7-63.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2007, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to permitted stem cell research, as defined in Code Section 31-46-2, through the Georgia Commission for Saving the Cure by donating either all or any part of any tax refund due, by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer's payment. The instructions accompanying the income tax return form shall contain a description of the purposes for which the commission was established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to contribute to the commission may designate such contribution as provided in this Code section on the appropriate income tax return form.

(b) The Department of Revenue shall determine annually the total amount so contributed and shall transmit such amount to the Georgia Commission for Saving the Cure."

### **SECTION 4.**

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) Section 3 of this Act shall apply to all taxable years beginning on and after January 1, 2007.

### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.