

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

CHAPTER 173. DONATION OF HUMAN FETAL TISSUE

Sec. 173.001. DEFINITIONS. In this chapter:

(1) "Authorized facility" means:

- (A) a hospital licensed under Chapter 241;
- (B) a hospital maintained or operated by this state or an agency of this state;
- (C) an ambulatory surgical center licensed under Chapter 243; or
- (D) a birthing center licensed under Chapter 244.

(2) "Human fetal tissue" means any gestational human organ, cell, or tissue from an unborn child. The term does not include:

- (A) supporting cells or tissue derived from a pregnancy or associated maternal tissue that is not part of the unborn child; or
- (B) the umbilical cord or placenta, provided that the umbilical cord or placenta is not derived from an elective abortion.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.002. APPLICABILITY. This chapter does not apply to:

- (1) human fetal tissue obtained for diagnostic or pathological testing;
- (2) human fetal tissue obtained for a criminal investigation;
- (3) human fetal tissue or human tissue obtained during pregnancy or at delivery of a child, provided the tissue is obtained by an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research; or

(4) cell lines derived from human fetal tissue or human tissue existing on September 1, 2017, that are used by an accredited public or private institution of higher education in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.003. ENFORCEMENT. (a) The department shall enforce this chapter.

(b) The attorney general, on request of the department or a local law enforcement agency, may assist in the investigation of a violation of this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.004. PROHIBITED DONATION. A person may not donate human fetal tissue except as authorized by this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.005. DONATION BY AUTHORIZED FACILITY. (a) Only an authorized facility may donate human fetal tissue. An authorized facility may donate human fetal tissue only to an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research.

(b) An authorized facility may not donate human fetal tissue obtained from an elective abortion.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.006. INFORMED CONSENT REQUIRED. An authorized facility may not donate human fetal tissue under this chapter unless the facility has obtained the written, voluntary, and

informed consent of the woman from whose pregnancy the fetal tissue is obtained. The consent must be provided on a standard form prescribed by the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.007. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) offers a woman monetary or other consideration to:

(A) have an abortion for the purpose of donating human fetal tissue; or

(B) consent to the donation of human fetal tissue; or

(2) knowingly or intentionally solicits or accepts tissue from a fetus gestated solely for research purposes.

(b) An offense under this section is a Class A misdemeanor punishable by a fine of not more than \$10,000.

(c) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.008. RECORD RETENTION. Unless another law requires a longer period of record retention, an authorized facility may not dispose of any medical record relating to a woman who consents to the donation of human fetal tissue before:

(1) the seventh anniversary of the date consent was obtained under Section 173.006; or

(2) if the woman was younger than 18 years of age on the date consent was obtained under Section 173.006, the later of:

(A) the woman's 23rd birthday; or

(B) the seventh anniversary of the date consent was obtained.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.

Sec. 173.009. ANNUAL REPORT. An authorized facility that donates human fetal tissue under this chapter shall submit an annual report to the department that includes for each donation:

- (1) the specific type of fetal tissue donated; and
- (2) the accredited public or private institution of higher education that received the donation.

Added by Acts 2017, 85th Leg., R.S., Ch. 441 (S.B. 8), Sec. 7, eff. September 1, 2017.