

HB 112 -- CUSTODY OF IN VITRO EMBRYOS

SPONSOR: McCaherty

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Judiciary by a vote of 8 to 3.

This bill establishes standards for a court to follow in rendering a decision involving custody of in vitro human embryos. The court must presume that the best interests of the embryo must be to grant custody to either the ovum donor or the spermatozoon donor who intends to develop the embryo to birth. The court must not approve the termination of the embryo or an outcome that leaves the embryo indefinitely in an environment in which it does not develop or grow.

This bill is the same as SB 1129 (2016).

PROPONENTS: Supporters say that judges are looking for some guidance from the legislature regarding how to handle cases regarding disputes over disposition of embryos. Judges do not seem to be consistent with their enforcing of contracts relating to the matter. Parties that do not want the embryos to develop into children have the ability to terminate financial and parental responsibility if they so choose. Additionally, this bill is not a "personhood" bill, and it is meant to give embryos limited rights that are strictly tied to the rights of the parent who wants the embryos. Finally, Section 1.205, RSMo, states that life begins at conception and that unborn children have protectable interests.

Testifying for the bill were Representative McCaherty; Jalesia McQueen; Missouri Right to Life; Concerned Women for America of Missouri; and Concerned Women for America.

OPPONENTS: Those who oppose the bill say that the statute is unconstitutional because it predetermines which party will prevail in a custody dispute. It says that a person who forms an embryo and who does not want to become a parent must still become a parent. Courts have held that there is a constitutional right to not procreate and those rights would be violated if the court requires the parties to attempt to develop the embryos to birth. The courts must balance each party's rights as there are competing and equal fundamental rights, and the courts should look to the in vitro fertilization contracts to determine whether they are enforceable. To date, no appeals' court has ruled that the decision to procreate has been exercised when an embryo has been created. Embryos are not children, and it is inappropriate to apply custody statutes to them.

Testifying against the bill were Tim Schlesinger; Dr. Randall Odem; NARAL Pro-Choice Missouri; ACLU Missouri; and Advocates of Planned Parenthood of The St. Louis Region and Southwest Missouri.