

By: Shapleigh

S.B. No. 1034

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain human cells and tissue; imposing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 168 to read as follows:

CHAPTER 168. USE OF HUMAN CELLS AND TISSUE

SUBCHAPTER A. STEM CELL RESEARCH

Sec. 168.001. USE OF HUMAN CELLS PERMITTED. (a) A person may conduct research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells, including cells from somatic cell nuclear transplantation.

(b) The research authorized by this section:

(1) must be conducted with full consideration for the ethical and medical implications of the research; and

(2) must be reviewed, in each case, by an institutional review board operating in accordance with applicable federal regulations.

Sec. 168.002. DUTY OF HEALTH CARE PROVIDER. A physician or other health care provider who is treating a patient for infertility shall provide the patient with timely, relevant, and appropriate information sufficient to allow the patient to make an informed and voluntary choice regarding the disposition of any

1 human embryos remaining following the infertility treatment in  
2 accordance with Section 168.003.

3 Sec. 168.003. PATIENT OPTIONS. (a) If following a  
4 patient's treatment for infertility unused human embryos remain,  
5 the patient may:

6 (1) direct that the embryos be stored for the patient's  
7 future use;

8 (2) donate the embryos to another person for use;

9 (3) donate the embryos for research purposes; or

10 (4) direct another disposition.

11 (b) A patient who donates, for research purposes, embryos  
12 remaining after infertility treatment must consent in writing to  
13 the donation.

14 [Sections 168.004-168.050 reserved for expansion]

15 SUBCHAPTER B. HUMAN CLONING

16 Sec. 168.051. HUMAN CLONING PROHIBITED; OFFENSE. (a) A  
17 person commits an offense if the person, directly or indirectly,  
18 knowingly engages in or assists in the replication of a human  
19 individual by cultivating a cell with the individual's genetic  
20 material through the egg, embryo, fetal, and newborn stages into a  
21 new human individual.

22 (b) An offense under this section is a third degree felony.

23 SECTION 2. Section 48.002(c), Penal Code, is amended to  
24 read as follows:

25 (c) It is an exception to the application of this section  
26 that the valuable consideration is: (1) a fee paid to a physician or  
27 to other medical personnel for services rendered in the usual

1 course of medical practice or a fee paid for hospital or other  
2 clinical services; (2) reimbursement of legal or medical expenses  
3 incurred for the benefit of the ultimate receiver of the organ; (3)  
4 reimbursement of expenses for removal, processing, disposal,  
5 preservation, quality control, storage, transplantation, or  
6 implantation of fetal tissue; or (4) [~~(3)~~] reimbursement of  
7 expenses of travel, housing, and lost wages incurred by the donor of  
8 a human organ in connection with the donation of the organ.

9 SECTION 3. (a) The change in law made by this Act applies  
10 only to an offense committed on or after the effective date of this  
11 Act. For purposes of this section, an offense is committed before  
12 the effective date of this Act if any element of the offense occurs  
13 before that date.

14 (b) An offense committed before the effective date of this  
15 Act is covered by the law in effect when the offense was committed,  
16 and the former law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2003.