

BILL ANALYSIS

Senate Research Center
79R1587 JTS-D

S.B. 128
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Health & Human Services
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

An estimated 128 million Americans suffer from the crippling economic and psychological burden of chronic, degenerative, and acute diseases, including Alzheimer's disease, cancer, diabetes, and Parkinson's disease. The cost of treatment and the lost productivity from these diseases in the United States constitutes hundreds of billions of dollars annually. Further, estimates of the economic costs of the diseases do not account for the extreme human loss and suffering associated with these conditions.

Human stem cell research offers immense promise for developing new medical therapies for these debilitating diseases and a critical means to explore fundamental questions of biology. Stem cell research may lead to unprecedented treatments and potential cures for Alzheimer's disease, cancer, diabetes, and Parkinson's disease as well as other diseases.

As proposed, S.B. 128 prohibits human cloning and would make the offense a first degree felony. S.B. 128 also regulates research involving the derivation and use of human embryonic stem cells, human umbilical cord stem cells and other human adult stem cells, and cells from somatic cell nuclear transfer to develop regenerative or reparative medical therapies or treatments. Further, S.B. 128 stipulates that the authorized research must be conducted with full consideration for the ethical and medical implications of the research, and each case must be reviewed by an institutional review board operating in accordance with applicable state federal regulations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle H, Title 2, Health and Safety Code, by adding Chapter 168, as follows:

CHAPTER 168. USE OF HUMAN CELLS AND TISSUE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 168.001. DEFINITIONS. Defines "human cloning," "human somatic cell," "nuclear transplantation," "nucleus," "oocyte," "regenerative or reparative medical therapy or treatment," and "unfertilized blastocyst."

[Reserves Sections 168.002-168.050 for expansion.]

SUBCHAPTER B. HUMAN CLONING

Sec. 168.051. HUMAN CLONING PROHIBITED. (a) Prohibits a person from engaging in or attempting to engage in human cloning.

(b) Prohibits a person from maintaining an unfertilized blastocyst for more than 14 days after the date of its first cell division, not including any time during which the blastocyst is stored at a temperature that is less than zero degrees centigrade.

Sec. 168.052. LICENSED VIOLATORS. Provides that a person licensed by a state agency as a health care practitioner or health care facility who violates Section 168.051 is subject to the same consequence, other than a civil penalty, that the person would be subject to if the person had violated the licensing law applicable to the person or rules adopted under that law.

Sec. 168.053. CIVIL PENALTY. (a) Provides that a person who violates Section 168.051 is liable to the state for a civil penalty of not more than \$10 million for each violation.

(b) Requires the amount of the penalty to be based on certain factors.

(c) Authorizes the attorney general to sue to collect a civil penalty under this section. Authorizes the attorney general to recover the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

Sec. 168.054. CRIMINAL OFFENSE. (a) Provides that a person commits an offense if the person intentionally engages in or attempts to engage in human cloning. Provides that an offense under this subsection is a felony of the first degree.

(b) Provides that a violation of Section 168.051(b) is a Class A misdemeanor unless it is shown on the trial of the defendant that the offense was committed with the intent to engage in human cloning, in which case it is a first degree felony.

[Reserves Sections 168.055-168.100 for expansion.]

SUBCHAPTER C. RESEARCH USING CERTAIN HUMAN CELLS OR TISSUES

Sec. 168.101. PROTECTION OF RESEARCH. Provides that this chapter does not restrict or prohibit certain research.

Sec. 168.102. RESEARCH OVERSIGHT. Requires research to follow certain guidelines.

Sec. 168.103. VOLUNTARY DONATIONS OF OOCYTES. Prohibits a person from using an oocyte in nuclear transplantation research unless the oocyte was donated voluntarily by and with the informed consent of the woman donating the oocyte.

[Reserves Sections 168.104-168.150 for expansion.]

SUBCHAPTER D. PROHIBITED SALE OR PURCHASE

Sec. 168.151. PURCHASE OR SALE OF OOCYTE OR BLASTOCYST. (a) Prohibits a person from purchasing, selling, or otherwise transferring for valuable consideration a human oocyte or unfertilized blastocyst.

(b) Provides that "valuable consideration" does not include reasonable payments associated with the transportation, processing, preservation, or storage of a human oocyte; or to compensate a donor for expenses directly associated with donation.

(c) Provides that a knowing violation of Subsection (a) is a first degree felony.

SECTION 2. Effective date: September 1, 2005.