

By: Swinford

H.B. No. 2948

A BILL TO BE ENTITLED

AN ACT

relating to human cloning and the protection of certain research;  
providing penalties.

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. GENERAL PROVISIONS

Sec. 168.001. DEFINITIONS. In this chapter:

(1) "Human cloning" means implanting or attempting to implant the product of nuclear transplantation into a uterus or the functional equivalent of a uterus.

(2) "Human somatic cell" means any human cell other than a haploid germ cell.

(3) "Nuclear transplantation" means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

(4) "Nucleus" means the cell structure that houses the chromosomes.

(5) "Oocyte" means the female germ cell, the egg.

(6) "Unfertilized blastocyst" means an intact cellular structure that is the product of nuclear transplantation.

The term does not include stem cells, other cells, cellular

1 structures, or biological products derived from an intact cellular  
2 structure that is the product of nuclear transplantation.

3 [Sections 168.002-168.050 reserved for expansion]

4 SUBCHAPTER B. HUMAN CLONING

5 Sec. 168.051. PROHIBITION ON HUMAN CLONING. A person may  
6 not:

7 (1) conduct or attempt to conduct human cloning;

8 (2) ship the product of nuclear transplantation for  
9 the purpose of human cloning; or

10 (3) export an unfertilized blastocyst to a foreign  
11 country that does not prohibit human cloning.

12 Sec. 168.052. PROTECTION OF RESEARCH. This subchapter does  
13 not restrict practices not expressly prohibited in this subchapter.

14 Sec. 168.053. CRIMINAL OFFENSE. A person commits an  
15 offense if the person intentionally violates Section 168.051. An  
16 offense under this section is a felony of the first degree.

17 Sec. 168.054. CIVIL PENALTY. A person who intentionally  
18 violates Section 168.051 is liable to the state for a civil penalty  
19 of \$1 million or three times the gross pecuniary gain resulting from  
20 the violation, whichever is greater.

21 Sec. 168.055. FORFEITURE. Any property derived from or  
22 used to commit a violation of Section 168.051 or any property  
23 traceable to property derived from or used to commit a violation of  
24 Section 168.051 shall be subject to forfeiture to the state in  
25 accordance with Chapter 59, Code of Criminal Procedure.

26 Sec. 168.056. RIGHT OF ACTION. This section does not create  
27 a private right of action.

1 [Sections 168.057-168.100 reserved for expansion]

2 SUBCHAPTER C. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION

3 RESEARCH

4 Sec. 168.101. DEFINITIONS. In this subchapter:

5 (1) "Donating" means giving without receiving  
6 valuable consideration.

7 (2) "Fertilization" means the fusion of an oocyte  
8 containing a haploid nucleus with a male gamete or sperm cell.

9 (3) "Valuable consideration" does not include  
10 reasonable payments:

11 (A) associated with the transportation,  
12 processing, preservation, or storage of a human oocyte or of the  
13 product of nuclear transplantation research; or

14 (B) to compensate a donor of one or more human  
15 oocytes for the time or inconvenience associated with the donation.

16 Sec. 168.102. NUCLEAR TRANSPLANTATION RESEARCH OVERSIGHT.

17 Research involving nuclear transplantation shall be conducted in  
18 accordance with 45 C.F.R. Part 46, Subpart A, or 21 C.F.R. Parts 50  
19 and 56, as applicable.

20 Sec. 168.103. PROHIBITION ON CONDUCTING NUCLEAR  
21 TRANSPLANTATION ON FERTILIZED EGGS. A person may not transplant a  
22 somatic cell nucleus into a human oocyte that has undergone or will  
23 undergo fertilization.

24 Sec. 168.104. FOURTEEN-DAY RULE. A person may not maintain  
25 an unfertilized blastocyst for more than 14 days after its first  
26 cell division, not counting any time during which it is stored at  
27 temperatures less than zero degrees centigrade.

1       Sec. 168.105. VOLUNTARY DONATION OF OOCYTES. An oocyte may  
2 not be used in nuclear transplantation research unless:

3           (1) the oocyte was donated voluntarily by and with the  
4 informed consent of the woman donating the oocyte; and

5           (2) the research is conducted in accordance with  
6 Section 168.102.

7       Sec. 168.106. PROHIBITION ON PURCHASE OR SALE. A person may  
8 not acquire, receive, or otherwise transfer for valuable  
9 consideration a human oocyte or unfertilized blastocyst.

10       Sec. 168.107. SEPARATION OF IN VITRO FERTILIZATION  
11 LABORATORIES FROM LOCATIONS AT WHICH NUCLEAR TRANSPLANTATION IS  
12 CONDUCTED. A person may not conduct nuclear transplantation in a  
13 laboratory in which human oocytes are subject to assisted  
14 reproductive technology treatments or procedures.

15       Sec. 168.108. CIVIL PENALTIES. A person who intentionally  
16 violates this subchapter is liable to the state for a civil penalty  
17 of not more than \$250,000 for each violation.

18       SECTION 2. Article 59.01(2), Code of Criminal Procedure, as  
19 amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and  
20 Section 3, Chapter 649, Acts of the 78th Legislature, Regular  
21 Session, 2003, is reenacted and amended to read as follows:

22           (2) "Contraband" means property of any nature,  
23 including real, personal, tangible, or intangible, that is:

24                   (A) used in the commission of:

25                           (i) any first or second degree felony under  
26 the Penal Code;

27                           (ii) any felony under Section 15.031(b),

1 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32,  
2 33, 33A, or 35, Penal Code; ~~[or]~~

3 (iii) any felony under The Securities Act  
4 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

5 (iv) any felony under Section 168.053,  
6 Health and Safety Code;

7 (B) used or intended to be used in the commission  
8 of:

9 (i) any felony under Chapter 481, Health  
10 and Safety Code (Texas Controlled Substances Act);

11 (ii) any felony under Chapter 483, Health  
12 and Safety Code;

13 (iii) a felony under Chapter 153, Finance  
14 Code;

15 (iv) any felony under Chapter 34, Penal  
16 Code;

17 (v) a Class A misdemeanor under Subchapter  
18 B, Chapter 365, Health and Safety Code, if the defendant has been  
19 previously convicted twice of an offense under that subchapter;

20 (vi) any felony under Chapter 152, Finance  
21 Code; ~~[or]~~

22 (vii) any felony under Chapter 31, 32, or  
23 37, Penal Code, that involves the state Medicaid program, or any  
24 felony under Chapter 36, Human Resources Code; or

25 (viii) [~~(vii)~~] a Class B misdemeanor under  
26 Section 35.60 [~~35.58~~], Business & Commerce Code;

27 (C) the proceeds gained from the commission of a

1 felony listed in Paragraph (A) or (B) of this subdivision, a  
2 misdemeanor listed in Paragraph (B)(viii) [~~(B)(vii)~~] of this  
3 subdivision, or a crime of violence; or

4 (D) acquired with proceeds gained from the  
5 commission of a felony listed in Paragraph (A) or (B) of this  
6 subdivision, a misdemeanor listed in Paragraph (B)(viii)  
7 [~~(B)(vii)~~] of this subdivision, or a crime of violence.

8 SECTION 3. This Act takes effect September 1, 2005.