

By: Shapleigh

S.B. No. 1733

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain human cells and tissue; 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) "Regenerative or reparative medical therapy or treatment" means a therapy or treatment in which stem cells are induced to differentiate into the specific cell type required to

1 repair damaged or depleted adult cell populations or tissues.

2 (7) "Unfertilized blastocyst" means an intact
3 cellular structure that is the product of nuclear transplantation.
4 The term does not include stem cells, other cells, cellular
5 structures, or biological products derived from an intact cellular
6 structure that is the product of nuclear transplantation.

7 [Sections 168.002-168.050 reserved for expansion]

8 SUBCHAPTER B. HUMAN CLONING

9 Sec. 168.051. HUMAN CLONING PROHIBITED. (a) A person may
10 not engage in or attempt to engage in human cloning.

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

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

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

24 (b) The amount of the penalty shall be based on:

25 (1) the seriousness of the violation;

26 (2) the history of previous violations;

27 (3) the amount necessary to deter a future violation;

1 and

2 (4) any other matter that justice may require.

3 (c) The attorney general may sue to collect a civil penalty
4 under this section. In the suit the attorney general may recover
5 the reasonable expenses incurred in obtaining the penalty,
6 including investigation and court costs, reasonable attorney's
7 fees, witness fees, and other expenses.

8 Sec. 168.054. CRIMINAL OFFENSE. (a) A person commits an
9 offense if the person intentionally engages in or attempts to
10 engage in human cloning. An offense under this subsection is a
11 felony of the first degree.

12 (b) A person commits an offense if the person recklessly
13 violates Section 168.051(b). An offense under this subsection is a
14 Class A misdemeanor unless it is shown on the trial of the defendant
15 that the offense was committed with the intent to engage in human
16 cloning, in which case it is a felony of the first degree.

17 [Sections 168.055-168.100 reserved for expansion]

18 SUBCHAPTER C. RESEARCH USING CERTAIN HUMAN CELLS OR TISSUES

19 Sec. 168.101. PROTECTION OF RESEARCH. This chapter does
20 not restrict or prohibit:

21 (1) scientific research, including nuclear
22 transplantation, to develop regenerative or reparative medical
23 therapies or treatments; or

24 (2) any other research not specifically prohibited by
25 this chapter.

26 Sec. 168.102. RESEARCH OVERSIGHT. Research described by
27 Section 168.101(1) must be:

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

3 (2) reviewed, in each case, by an institutional review
4 board for compliance with applicable state and federal law and
5 after consideration of the guidelines developed under Section
6 168.103.

7 Sec. 168.103. ADVISORY COMMITTEE ON RESEARCH TO DEVELOP
8 REGENERATIVE OR REPARATIVE MEDICAL THERAPIES OR TREATMENTS. (a)
9 The executive commissioner of the Health and Human Services
10 Commission shall establish an advisory committee to develop
11 guidelines for research described by Section 168.101(1).

12 (b) The advisory committee consists of 13 members appointed
13 by the executive commissioner of the Health and Human Services
14 Commission as follows:

15 (1) seven scientists with experience in biomedical
16 research in the fields of cell differentiation, nuclear
17 reprogramming, tissue formation and regeneration, stem cell
18 biology, developmental biology, regenerative medicine, or related
19 fields;

20 (2) two medical ethicists;

21 (3) two persons with backgrounds in legal issues
22 related to research described by Section 168.101(1), in vitro
23 fertilization, or family law, as it applies to the donation of
24 embryos and oocytes; and

25 (4) two persons who are members or leaders of
26 religious organizations.

27 (c) The advisory committee shall revise and update the

1 guidelines developed under this section as necessary.

2 (d) Section 2110.008, Government Code, does not apply to the
3 advisory committee.

4 Sec. 168.104. VOLUNTARY DONATION OF OOCYTES. A person may
5 not use an oocyte in nuclear transplantation research unless the
6 oocyte was donated voluntarily by and with the informed consent of
7 the woman donating the oocyte.

8 [Sections 168.105-168.150 reserved for expansion]

9 SUBCHAPTER D. PROHIBITED SALE OR PURCHASE

10 Sec. 168.151. PURCHASE OR SALE OF OOCYTE OR BLASTOCYST. (a)
11 A person may not purchase, sell, or otherwise transfer for valuable
12 consideration a human oocyte or unfertilized blastocyst.

13 (b) In this section, "valuable consideration" does not
14 include reasonable payments:

15 (1) associated with the transportation, processing,
16 preservation, or storage of a human oocyte; or

17 (2) to compensate a donor for expenses directly
18 associated with the donation.

19 (c) A person commits an offense if the person knowingly
20 violates Subsection (a). An offense under this subsection is a
21 felony of the first degree.

22 SECTION 2. (a) The executive commissioner of the Health and
23 Human Services Commission shall appoint members to the advisory
24 committee as required by Section 168.103, Health and Safety Code,
25 as added by this Act, not later than November 1, 2005.

26 (b) The advisory committee shall adopt research guidelines
27 as required by Section 168.103, Health and Safety Code, as added by

1 this Act, not later than June 1, 2006.

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