

By: Woolley

H.B. No. 1764

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the use of human cells and tissue,
including a ban on human cloning; 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 176 to read as follows:

CHAPTER 176. BIOMEDICAL RESEARCH OVERSIGHT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 176.001. DEFINITIONS. In this chapter:

(1) "Embryo" means an organism from the single cell
stage to eight weeks of development.

(2) "Fertilization" means the fusion of a female germ
cell containing a haploid nucleus with a male gamete or sperm cell.

(3) "Human cloning" means implanting or attempting to
implant into a uterus or the functional equivalent of a uterus a
human embryo created by a method other than fertilization.

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

[Sections 176.002-176.050 reserved for expansion]

SUBCHAPTER B. HUMAN CLONING

Sec. 176.051. HUMAN CLONING PROHIBITED. A person may not
engage in or attempt to engage in human cloning.

Sec. 176.052. LICENSED VIOLATORS. A person licensed by a
state agency as a health care practitioner or health care facility
who violates Section 176.051 is subject to the same consequence,

1 other than a civil penalty, that the person would be subject to if
2 the person had violated the licensing law applicable to the person
3 or rules adopted under that law.

4 Sec. 176.053. CIVIL PENALTY. (a) A person who violates
5 Section 176.051 is liable to the state for a civil penalty of not
6 more than \$10 million for each violation.

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

8 (1) the seriousness of the violation;

9 (2) the history of previous violations;

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

11 and

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

13 (c) The attorney general may sue to collect a civil penalty
14 under this section. In the suit the attorney general may recover
15 the reasonable expenses incurred in obtaining the penalty,
16 including investigation and court costs, reasonable attorney's
17 fees, witness fees, and other expenses.

18 Sec. 176.054. CRIMINAL OFFENSE. A person commits an
19 offense if the person intentionally engages in or attempts to
20 engage in human cloning. An offense under this section is a felony
21 of the first degree.

22 [Sections 176.055-176.100 reserved for expansion]

23 SUBCHAPTER C. RESEARCH USING CERTAIN HUMAN CELLS OR TISSUES

24 Sec. 176.101. PROTECTION OF RESEARCH. This chapter does
25 not restrict or prohibit:

26 (1) scientific research, including nuclear
27 transplantation, to develop regenerative or reparative medical

1 therapies or treatments; or

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

4 Sec. 176.102. RESEARCH OVERSIGHT. Research described by
5 Section 176.101(1) must be:

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

8 (2) reviewed, in each case, by an institutional review
9 board for compliance with applicable state and federal law and
10 after consideration of the guidelines developed under Section
11 176.103.

12 Sec. 176.103. ADVISORY COMMITTEE ON RESEARCH TO DEVELOP
13 REGENERATIVE OR REPARATIVE MEDICAL THERAPIES OR TREATMENTS. (a)
14 The executive commissioner of the Health and Human Services
15 Commission shall establish an advisory committee to develop
16 guidelines for research described by Section 176.101(1).

17 (b) The advisory committee consists of members appointed by
18 the executive commissioner of the Health and Human Services
19 Commission as follows:

20 (1) seven scientists with experience in biomedical
21 research in the fields of cell differentiation, nuclear
22 reprogramming, tissue formation and regeneration, stem cell
23 biology, developmental biology, regenerative medicine, or related
24 fields;

25 (2) one representative from each health science center
26 in this state;

27 (3) one person who is a member of or leader in the

1 biotechnology industry;

2 (4) one medical ethicist;

3 (5) one person with a background in legal issues
4 related to research described by Section 176.101(1), in vitro
5 fertilization, or family law, as it applies to the donation of
6 embryos and oocytes; and

7 (6) one person who is a member or leader of a religious
8 organization.

9 (c) The advisory committee shall revise and update the
10 guidelines developed under this section as necessary.

11 (d) The advisory committee may work with existing
12 institutional review boards in developing guidelines.

13 (e) Section 2110.008, Government Code, does not apply to the
14 advisory committee.

15 Sec. 176.104. VOLUNTARY DONATION OF OOCYTES. A person may
16 not use an oocyte in nuclear transplantation research unless the
17 oocyte was donated voluntarily by and with the informed consent of
18 the woman donating the oocyte.

19 [Sections 176.105-176.150 reserved for expansion]

20 SUBCHAPTER D. PROHIBITED PURCHASE OR SALE; CRIMINAL PENALTY

21 Sec. 176.151. PURCHASE OR SALE OF OOCYTE. (a) A person may
22 not purchase, sell, or otherwise transfer for valuable
23 consideration a human oocyte.

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

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

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

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

6 SECTION 2. (a) The executive commissioner of the Health and
7 Human Services Commission shall appoint members to the advisory
8 committee as required by Section 176.103, Health and Safety Code,
9 as added by this Act, not later than November 1, 2009.

10 (b) The advisory committee shall adopt research guidelines
11 as required by Section 176.103, Health and Safety Code, as added by
12 this Act, not later than June 1, 2010.

13 SECTION 3. This Act takes effect September 1, 2009.