

By: Shapleigh

S.B. No. 208

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

(2) "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.

(3) "Human embryo" means an organism of the species
homo sapiens from the single cell stage to eight weeks of
development.

(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

1 who violates Section 176.051 is subject to the same consequence,
2 other than a civil penalty, that the person would be subject to if
3 the person had violated the licensing law applicable to the person
4 or rules adopted under that law.

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

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

9 (1) the seriousness of the violation;

10 (2) the history of previous violations;

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

12 and

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

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

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

23 [Sections 176.055-176.100 reserved for expansion]

24 SUBCHAPTER C. RESEARCH USING CERTAIN HUMAN CELLS OR TISSUES

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

27 (1) scientific research, including nuclear

1 transplantation, to develop regenerative or reparative medical
2 therapies or treatments; or

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

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

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

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

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

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

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

27 (2) one representative from each health science center

1 in this state;

2 (3) one person who is a member of or leader in the
3 biotechnology industry;

4 (4) one medical ethicist;

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

9 (6) one person who is a member or leader of a religious
10 organization.

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

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

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

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

21 [Sections 176.105-176.150 reserved for expansion]

22 SUBCHAPTER D. DISPOSITION OF HUMAN EMBRYOS

23 Sec. 176.151. DONATION OF HUMAN EMBRYO. (a) A person may
24 donate an embryo created in the course of fertility treatment for
25 the purpose of assisted reproduction, as defined by Section
26 160.102, Family Code, to be used in scientific research or to be
27 used by an intended mother for the purpose of conceiving a child.

1 (b) If both a man and a woman contracted for the creation of
2 the embryo, both parties must consent to the donation.

3 (c) Consent to the donation under Subsection (c) terminates
4 any parent-child relationship with respect to the embryo.

5 Sec. 176.152. SALE OF HUMAN EMBRYO PROHIBITED; CRIMINAL
6 PENALTY. (a) A person may not purchase, sell, or otherwise
7 transfer for valuable consideration a human embryo.

8 (b) In this section, "valuable consideration" does not
9 include reasonable payments associated with the transportation,
10 processing, preservation, or storage of the human embryo.

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

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

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

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