

Regular Session, 2004

SENATE BILL NO. 873 (Substitute for Senate Bill No. 782 by Senator Lentini)

BY SENATOR LENTINI

CRIME/PUNISHMENT. Criminalizes human cloning. (gov sig)

1 AN ACT

2 To enact Part XIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1299.36 through 1299.36.7, and R.S. 37:1285(A)(32), all
4 relative to human cloning; to provide for definitions; to prohibit the expenditure of
5 state funds for the purpose of human cloning; to provide for penalties; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part XIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of
9 1950, to be comprised of R.S. 40:1299.36 through 1299.36.7 is hereby enacted to read as
10 follows:

11 PART XIX. HUMAN CLONING

12 **Part XIX is all proposed new law.**

13 §1299.36. Title

14 **R.S. 40:1299.36 is all proposed new law.**

15 This Act may be known and cited as the "Human Cloning Ban and Adult
16 Stem Cell Research Promotion Act."

17 §1299.36.1. Definitions

R.S. 40:1299.36.1 is all proposed new law.

As used in this Part, the following words have the following meanings:

(1) "Asexual production" means human reproduction not initiated by the union of oocyte and sperm.

(2) "Human cloning" means human asexual production, by somatic cell nuclear transfer, to produce a living embryo with a human or predominantly human genetic constitution.

(3) "Oocyte" means the human female germ cell (the ovum). Somatic cell means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human being at any stage of development.

(4) "Somatic cell nuclear transfer" means introducing the nuclear material of a human somatic cell (donor) into an oocyte (ovum) whose own nucleus has been removed or inactivated, yielding a product that has a human genetic constitution virtually identical to the donor of the somatic cell.

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

(6) "Fetus" means an organism of the species homo sapiens from eight weeks development until complete expulsion or extraction from a woman's body, or removal from an artificial womb or other similar environment designed to nurture the development of such organism.

§1299.36.2. Cloning of human beings; purchase or sale of ovum, zygote, embryo or fetus for the purpose of cloning human beings, prohibited

R.S. 40:1299.36.2 is all proposed new law.

A. It shall be unlawful for any person or entity, public or private, to intentionally or knowingly do any of the following:

(1) Perform or attempt to perform human cloning.

(2) Participate in an attempt to perform human cloning.

(3) Transfer, ship, or receive for any purpose a human embryo produced by human cloning, or any product derived from such human embryo.

1 (4) Import for any purpose a human embryo produced by human cloning, or
2 any product derived from such human embryo.

3 B. No person shall purchase or sell an ovum, zygote, embryo, or fetus with
4 the intent to perform or attempt to perform human cloning.

5 C. Whoever violates this Section shall be fined not more than ten million
6 dollars or imprisoned, with or without hard labor, for not more than ten years, or
7 both.

8 §1299.36.3. Adult stem cell research, in vitro fertilization, and other cell-based
9 therapies not prohibited

10 **R.S. 40:1299.36.3 is all proposed new law.**

11 Nothing in this statute shall restrict areas of scientific research not specifically
12 prohibited by this statute, including in vitro fertilization, the administration of
13 fertility enhancing drugs, research in the use of nuclear transfer or other cloning
14 techniques to produce molecules, DNA, tissues, organs, plants, or animals other than
15 humans, or cells other than human embryos.

16 §1299.36.4. Administrative penalties

17 **R.S. 40:1299.36.4 is all proposed new law.**

18 A. For a violation of R. S. 40:1299.36.2, the secretary of the Department of
19 Health and Hospitals may, in accordance with the provisions of the Administrative
20 Procedure Act, R.S. 49:950, et seq., order the levy of an administrative penalty as
21 follows:

22 (1) If the violator is a legal entity other than an individual, including but not
23 limited to a corporation, firm, clinic, hospital, laboratory, or research facility, a
24 penalty of not more than ten million dollars or the applicable amount under
25 Subsection B of this Section, whichever is greater.

26 (2) If the violator is an individual, a penalty of not more than five million
27 dollars or the applicable amount under Subsection B of this Section, whichever is
28 greater.

29 B. If any person derives pecuniary gain from a violation of R.S.

1 40:1299.36.2, the person shall be assessed a civil penalty of not more than an amount
2 equal to the amount of gross gain multiplied by two.

3 §1299.36.5. Violation constitutes unprofessional conduct; employment restrictions

4 **R.S. 40:1299.36.5 is all proposed new law.**

5 A. A violation of this Part, relating to human cloning, constitutes
6 unprofessional conduct and shall result in the permanent revocation of each license
7 and permit issued pursuant to R.S. 37:1261, et seq.

8 B. A violation of this Part shall provide, in addition to Subsection A of this
9 Section, the basis for disciplinary action deemed appropriate by the Louisiana State
10 Board of Medical Examiners pursuant to R.S. 37:1261, et seq.

11 C. Notwithstanding any provision of law to the contrary, a violation of this
12 Part shall be the basis for denying an application for, or an application for the renewal
13 of any license, permit, or certificate required by this state, or the granting of a
14 conditional license, permit, or certificate required by this state, or any department,
15 office, agency, or board of the state in order to practice or engage in a trade,
16 occupation, or profession.

17 §1299.36.6. Use of state funds prohibited

18 **R.S. 40:1299.36.6 is all proposed new law.**

19 A. Notwithstanding any other provision of law to the contrary, state funds
20 shall not be used to perform or attempt to perform human cloning.

21 B. Subsection A of this Section does not prohibit the use of state funds for
22 scientific research or cell-based therapies not specifically prohibited by this Part as
23 designated in R.S. 40:1299.36.3.

24 C. A person who violates this Section shall be subject to a fine of ten million
25 dollars.

26 §1299.36.7. Use of health facility or agency for human cloning prohibited; penalties

27 **R.S. 40:1299.36.7 is all proposed new law.**

28 A. A health facility or agency shall not allow any individual to perform or
29 attempt to perform human cloning in a facility owned or operated by the health

1 facility or agency.

2 B. Nothing in this Section shall prohibit a health facility or agency from
3 allowing an individual from engaging in scientific research or a cell-based therapy
4 not specifically prohibited by this Part as designated in R.S. 40:1299.36.3.

5 C. A health facility or agency that violates this Section shall be subject to
6 administrative penalties provided by law for that facility or agency and to a fine of
7 ten million dollars and loss of each license granted by law to the facility or agency.

8 Section 2. R.S. 37:1285(A)(32) is hereby enacted to read as follows:

9 §1285. Causes for nonissuance; suspension; revocation; or the imposition of
10 restrictions; fines, reinstatement; publication of action; stays

11 A. The board may refuse to issue, or may suspend or revoke any license or
12 permit, or impose probationary or other restrictions on any license or permit issued
13 under this Part for the following causes:

14 * * *

15 **(32) A violation of Part XIX of Chapter 5 of Title 40 of the Louisiana**
16 **Revised Statutes of 1950, comprised of R.S. 40:1299.36 through 1299.36.7.**

17 Section 3. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Peggy Russell.

Lentini (SB 873)

DIGEST

Proposed law provides that it shall be unlawful for any person or entity, public or private, to intentionally or knowingly do any of the following:

- (1) Perform or attempt to perform human cloning.
- (2) Participate in an attempt to perform human cloning.
- (3) Transfer, ship or receive for any purpose a human embryo produced by human

cloning, or any product derived from such human embryo.

- (4) Import for any purpose a human embryo produced by human cloning, or any product derived from such human embryo.

Proposed law further provides that no person shall purchase or sell an ovum, zygote, embryo, or fetus with the intent to perform or attempt to perform human cloning.

Proposed law provides penalties for violations of a fine of not more than \$10,000,000 or imprisonment with or without hard labor for not more than 10 years, or both.

Proposed law creates exceptions for in vitro fertilization, the administration of fertility enhancing drugs, research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, tissues, organs, plants, or animals other than humans, or cells other than human embryos.

Proposed law provides for the DHH to issue administrative penalties for violations and the Board of Medical Examiners to issue professional reprimands for violations.

Proposed law provides that state funds shall not be used to perform or attempt to perform human cloning, but does not prohibit state funds for use in scientific research not prohibited by proposed law.

Proposed law provides that a health facility or agency shall not allow any individual to perform or attempt to perform human cloning in a facility owned or operated by the health facility or agency. Also provides that failure to adhere to this prohibition results in administrative penalties.

Proposed law defines "asexual reproduction," "human cloning," "oocyte," "somatic cell nuclear transfer," "embryo," and "fetus." (R.S. 40:1299.36.1)

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1299.36-1299.36.7 and R.S. 37:1285(A)(32))