

Regular Session, 2004

HOUSE BILL NO. 803

BY REPRESENTATIVE BEARD

CRIME: Criminalizes human cloning

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 1299.36.86, and R.S. 37:1285(A)(32), all  
4 relative to human cloning; to provide for definitions; to provide for exceptions; to  
5 prohibit the expenditure of state funds for the purpose of human cloning, to provide  
6 for penalties; and to provide 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 40:1299.36.8 is hereby enacted to read as  
10 follows:

11 PART XIX. HUMAN CLONING

12 §1299.36. Title

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

15 §1299.36.1. Legislative intent; findings

16 A. In order to protect the health and welfare of the citizens of this state, it is  
17 the intent of the legislature to promote adult stem cell research that offers real cures  
18 and not illusory promises, and to ban the cloning of human embryos for the purpose  
19 of producing children as well as cloning for research, which always results in the  
20 destruction of human embryos when their stem cells are harvested.

21 B. The legislature finds that:

1           (1) The state has a compelling interest in promoting research that offers real  
2           cures and not illusory promises.

3           (2) The state also has a compelling interest in ensuring that human beings,  
4           at whatever stage of life, are not created for use as raw materials. Cloning for any  
5           purpose will compromise women's health, turn their eggs and wombs into  
6           commodities and factories and will lead to production of experimental human beings.

7           (3) Researchers in at least one country have announced the cloning of a  
8           human being at the embryonic stage of life by the process known as somatic cell  
9           nuclear transfer.

10           (4) A cloned human embryo, if implanted in the uterus of a female of  
11           reproductive age, can theoretically grow into a newborn baby. The outcome or  
12           purpose of cloning in this circumstance is cloning for reproduction. Conversely, a  
13           cloned human embryo may be allowed to develop only to the blastocyst stage and  
14           then harvested for its stem cells, resulting in the destruction of the cloned human  
15           embryo. The outcome or purpose of cloning in this circumstance is cloning for  
16           research.

17           (5) There is no scientific difference between cloning for reproduction and  
18           cloning for research. The only difference is the stated purpose for which the cloned  
19           human embryo is created. Thus, there are not two distinct scientific processes. There  
20           is only one process, human cloning, with two possible outcomes or purposes. Those  
21           outcomes or purposes are reproduction or destructive research.

22           (6) Cloning for research has not produced a single cure or treatment in  
23           animal models for any disease, nor has it produced any cures or treatments in human  
24           beings.

25           (7) Adult islet cells have already helped hundreds of patients with juvenile  
26           diabetes; this and other avenues that pose no moral problem hold enormous promise  
27           for the future.

28           (8) Promoting research using adult stem cells that have shown real benefits  
29           can be achieved by prohibiting cloning of human beings at the embryonic stage of

1 life for both reproduction and destructive research. This safeguards the State's interest  
2 in protecting human life and promotes legitimate cure producing research.

3 §1299.36.2. Definitions

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

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

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

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

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

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

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

23 §1299.36.3. Cloning of human beings; purchase or sale of ovum, zygote, embryo or  
24 fetus for the purpose of cloning human beings, prohibited

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

27 (1) Perform or attempt to perform human cloning.

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

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

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

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

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

10          §1299.36.4. Exceptions; adult stem cell research, in vitro fertilization, and other  
11          cell-based therapies not prohibited

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

17          §1299.36.5. Administrative penalties

18           A. For a violation of R. S. 40:1299.36.3, 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, including but not limited to a corporation,  
23           firm, clinic, hospital, laboratory, or research facility, a penalty of not more than ten  
24           million dollars or the application amount under Subsection B of this Section,  
25           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.

1           B. If any person derives pecuniary gain from a violation of R.S.  
2           40:1299.36.3, the person shall be assessed a civil penalty of not more than an amount  
3           equal to the amount of gross gain multiplied by two.

4           §1299.36.6. Violation constitutes unprofessional conduct; employment restrictions

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          §1299.36.7. Use of state funds prohibited

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

20          B. Subsection A of this Section does not prohibit the use of state funds for  
21          scientific research or cell-based therapies not specifically prohibited by this Part as  
22          designated in R.S. 40:1299.36.4.

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

25          §1299.36.8. Use of health facility or agency for human cloning prohibited; penalties

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



- (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, failure to adhere to this prohibition can result in administrative penalties.

Proposed law defines "asexual reproduction", "human cloning", "oocyte", "somatic cell nuclear transfer", "embryo", and "fetus" (R.S. 40:1299.36.2)

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

(Adds R.S. 40:1299.36 through 1299.36.8 and R.S. 37:1285(A)(32))