

Regular Session, 2004

SENATE BILL NO. 782

BY SENATOR LENTINI

HEALTH SERVICES. Provides for a ban on human cloning and promotion of adult stem cell research.

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AN ACT

To enact R.S. 37:1285(A)(32) and Part XIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1299.36 through 1299.36.8, relative to human cloning; to prohibit human cloning; to provide for definitions; to provide for penalties; to provide for the promotion of adult stem cell research; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1285(A)(32) is hereby enacted to read as follows:

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

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

* * *

R.S. 37:1285(A)(32) is all proposed new law.

(32) A violation of Part XIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, composed of R.S. 40:1299.36 through 1299.36.8.

1 Section 2. Part XIX of Chapter 5 of Title 40 of the Louisiana Revised Statutes of
2 1950, comprised of R.S. 40:1299.36 through 1299.36.8, is hereby enacted to read as follows:

3 PART XIX. HUMAN CLONING AND ADULT STEM CELL RESEARCH ACT

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

5 §1299.36. Short title

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

7 This Part shall be known and may be referred to as the "Human Cloning and
8 Adult Stem Cell Research Act."

9 §1299.36.1. Legislative intent

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

11 It is the intent of the legislature to protect the health and welfare of the
12 citizens of this state through a ban on the cloning of human beings while encouraging
13 adult stem cell research, keeping in mind the profound medical possibilities posed
14 by adult stem cell research, especially considering research efforts focused on spinal
15 cord injury, multiple sclerosis, Parkinson's disease, Alzheimer's disease, and diabetes.

16 §1299.36.2. Definitions

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

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

19 (1) "Clone" means the practice of creating or attempting to create a human
20 being by transferring the nucleus from a human cell from whatever source into a
21 human egg cell from which the nucleus has been removed for the purpose of, or to
22 implant, the resulting product to initiate a pregnancy that could result in the birth of
23 a human being.

24 (2) "Adult stem cell research" means scientific research efforts focused on
25 the potential of stem cells from adult tissues, including but not limited to umbilical
26 cord blood and bone marrow, being used to treat or to mitigate diseases and
27 conditions and to generate replacement tissues for disfunctioning cells or organs.

28 (3) "Department" means the Louisiana Department of Health and Hospitals.

29 §1299.36.3. Cloning of human beings; purchases of ovum, zygote, embryo, or fetus

1 for the purpose of cloning human beings, prohibited

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

3 A. No person shall clone or attempt to clone a human being.

4 B. No person shall purchase or sell an ovum, zygote, embryo, or fetus with
5 the intent to clone a human being.

6 C. This Section does not prohibit scientific research or a cell-based therapy
7 not specifically prohibited elsewhere by this Part.

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

11 §1299.36.4. Administrative penalties

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

13 A. For a violation of R.S. 40:1299.36.3, the secretary of the department may
14 order the levy of an administrative penalty, in accordance with the Administrative
15 Procedure Act, R.S. 49:950 et seq., as follows:

16 (1) If the violator is a corporation, firm, clinic, hospital, laboratory, or
17 research facility, a penalty of not more than ten million dollars or the applicable
18 amount under Subsection (B) of this Section, whichever is greater.

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

22 B. If any person derives pecuniary gain from a violation of R.S.
23 40:1299.36.3, the person shall be assessed a civil penalty of not more than an amount
24 equal to the amount of the gross gain multiplied by two.

25 §1299.36.5. Violation constitutes unprofessional conduct; employment restrictions

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

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

1 B. A violation of this Part, relating to human cloning, shall provide, in
2 addition to Subsection A of this Section, the basis for disciplinary action deemed
3 appropriate by the Louisiana State Board of Medical Examiners pursuant to R.S.
4 37:1261 et seq.

5 C. Notwithstanding any provision of law to the contrary, a violation of this
6 Part shall be the basis for denying an application for, or an application for the renewal
7 of any license, permit, or certificate required by this state, or the granting of a
8 conditional license, permit, or certificate required by this state, or any department,
9 office, agency, or board of the state in order to practice or engage in a trade,
10 occupation, or profession.

11 §1299.36.6. Use of state funds prohibited

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

13 A. Notwithstanding any other provision of law to the contrary, state funds
14 shall not be used to clone or attempt to clone a human being.

15 B. Subsection A of this Section does not prohibit the use of state funds for
16 adult stem cell research or cell-based therapies not specifically prohibited by this
17 Part.

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

20 §1299.36.7. Use of health facility or agency for human cloning prohibited; penalties

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

22 A. A health facility or agency shall not allow any individual to clone or
23 attempt to clone a human being in a facility owned or operated by the health facility
24 or agency.

25 B. Nothing in this Section shall prohibit a health facility or agency from
26 allowing an individual to engage in scientific research or a cell-based therapy not
27 specifically prohibited by this Part.

28 C. A health facility or agency that violates this Section shall be subject to
29 administrative penalties provided by law for that facility or agency and to a fine of

1 ten million dollars and loss of each license granted by law to the facility or agency.

2 D. A fine collected under this Section shall be deposited into the state
3 treasury.

4 E. This Section does not give a person a private right of action.

5 §1299.36.8. Adult stem cell research; promotion

6 **R.S. 40:1299.36.8 is all proposed new law.**

7 A. Nothing in this Part shall prohibit adult stem cell research and related cell-
8 based therapies not specifically prohibited by this Part.

9 B. Researchers in Louisiana are hereby encouraged to participate in adult
10 stem cell research efforts to the full extent that private and federal monies are
11 available and to the extent that any state appropriations are allocated for adult stem
12 cell research.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

Proposed law prohibits the cloning of human beings while encouraging adult stem cell research.

Proposed law defines "cloning" as the practice of creating or attempting to create a human being by transferring the nucleus from a human cell from whatever source into a human egg cell from which the nucleus has been removed for the purpose of, or to implant, the resulting product to initiate a pregnancy that could result in the birth of a human being.

Proposed law defines "adult stem cell research" as scientific research efforts focused on the potential of stem cells from adult tissues, including but not limited to umbilical cord blood and bone marrow, being used to treat or to mitigate diseases and conditions and to generate replacement tissues for disfunctioning cells or organs.

Proposed law prohibits cloning or attempting to clone a human being, purchasing or selling an ovum, zygote, embryo, or fetus with the intent to clone, and provides penalties, including license revocation, for violation of these provisions.

Proposed law recognizes the potential effects of adult stem cell research on such conditions as spinal cord injury, multiple sclerosis, Parkinson's disease, Alzheimer's disease, and diabetes.

Proposed law encourages researchers in Louisiana to participate in adult stem cell research efforts to the full extent that federal and private funds are available and should state funds be allocated.

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