

Regular Session, 2004

HOUSE BILL NO. 557

BY REPRESENTATIVE BEARD

CRIME: Criminalizes human cloning

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AN ACT

To amend and reenact R.S. 40:1299.36, 1299.36.1, and 1299.36.2 and to repeal Section 3 of Act No. 788 of the 1999 Regular Session of the Legislature, relative to human cloning; to prohibit human cloning; to provide for definitions; to provide for exceptions; to provide the criminal penalties; to repeal the termination date of provisions that prohibit human cloning; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.36, 1299.36.1, and 1299.36.2 are hereby amended and reenacted to read as follows:

§1299.36. Legislative intent; findings

A. It is the intent of the legislature to protect the health and welfare of the citizens of this state through a ban on the cloning of human beings ~~while encouraging the thorough and diligent evaluation required by~~ in light of the profound medical, ethical, and social ~~questions concerns~~ raised by the possibility of human cloning.

B. The legislature finds that:

(1) At least one company has announced that it has successfully cloned a human being at the early embryonic stage of life, and others have announced that they will attempt to clone a human being using the technique known as somatic cell nuclear transfer.

(2) Efforts to create human beings by cloning mark a new and decisive step toward turning human reproduction into a manufacturing process in which human

1 beings are made in laboratories to preordained specifications and, potentially, in  
2 multiple copies.

3 (3) Creating cloned live-born children, "cloning to produce children", begins  
4 by creating cloned human beings at the embryonic stage of life, a process which some  
5 also propose as a way of creating human embryos for destructive research as sources  
6 of stem cells and tissues for possible treatment of other humans, "cloning for  
7 biomedical research".

8 (4) Many scientists agree that attempts at "cloning to produce children" pose  
9 a massive risk of either producing children who are stillborn, unhealthy, or severely  
10 disabled, and that attempts at "cloning for biomedical research" always results in the  
11 destruction of human beings at the embryonic stage of life when their stem cells are  
12 harvested.

13 (5) The prospect of manufacturing human life solely to be exploited or  
14 destroyed in these ways has been condemned on moral and ethical grounds by many  
15 as displaying a profound disrespect for human life.

16 (6) The distinction between "therapeutic cloning" and "reproductive cloning"  
17 is a false distinction scientifically because both begin with the reproduction of a  
18 human being at the embryonic stage of life, one destined for implantation in the  
19 womb, one destined for destructive farming of its stem cells.

20 (7) It would be impossible to enforce a ban on "reproductive cloning" if  
21 "therapeutic cloning" is allowed because any government effort to prevent the  
22 implantation of an existing cloned embryo, or to prevent birth once implantation has  
23 occurred would raise substantial moral, legal, and practical issues.

24 (8) Biomedical research and treatments do not require the cloning and  
25 subsequent destruction of cloned human organisms because such research can be  
26 ethically pursued in other ways, including stem cells from adult organs and tissues  
27 such as bone marrow, blood and nerve tissue, umbilical cord blood and placental  
28 tissue, and stem cells from cell lines approved for federal funding.

1            C. Based on the above findings, it is the purpose of this Part to prohibit both  
2            cloning to produce children and cloning for biomedical research.

3            §1299.36.1. Definition Definitions

4            ~~As used in this Part, "clone" means the practice of creating or attempting to~~  
5            ~~create a human being by transferring the nucleus from a human cell from whatever~~  
6            ~~source into a human egg cell from which the nucleus has been removed for the~~  
7            ~~purpose of or to implant the resulting product to initiate a pregnancy that could result~~  
8            ~~in the birth of a human being.~~

9            For purposes of this Part, the following terms have the following meanings:

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

12            (2) "Human cloning" means asexual production, by somatic cell nuclear  
13            transfer, of a new human organism or partial human organism that is, at all stages of  
14            development, genetically virtually identical to a currently existing or previously  
15            existing human being.

16            (3) "Oocyte" means the human female germ cell (the ovum).

17            (4) "Somatic cell" means a diploid cell (having a complete set of  
18            chromosomes) obtained or derived from a living or deceased human being at any  
19            stage of development.

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

24            §1299.36.2. ~~Cloning of human beings; purchase or sale of ovum, zygote, embryo,~~  
25            ~~or fetus for the purpose of cloning human beings, prohibited~~ Prohibitions

26            A. No person or entity, public or private, shall clone or attempt to clone a  
27            human being intentionally or knowingly:

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

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

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

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

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

7           C. This Section does not prohibit scientific research or a cell-based therapy  
8           not specifically prohibited elsewhere by this Part, including in vitro fertilization, the  
9           administration of fertility enhancing drugs, research in the use of nuclear transfer or  
10          other cloning techniques to produce molecules, DNA, tissues, organs, plants, or  
11          animals other than human organisms.

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

15          Section 2. Section 3 of Act No. 788 of the 1999 Regular Session of the Legislature  
16          is hereby repealed in its entirety.

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.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Beard

HB No. 557

**Abstract:** Prohibits human cloning and deletes the termination date of provisions that prohibit human cloning.

Present law, relative to cloning, R.S. 40:1299.36 et seq., provides that it is the intent of the legislature to protect the health and welfare of the citizens of this state through a ban on the cloning of human beings while encouraging the thorough and diligent evaluation required

by the profound medical, ethical, and social questions raised by the possibility of human cloning.

Proposed law provides instead that it is the intent of the legislature to protect the health and welfare of the citizens of this state through a ban on the cloning of human beings in light of the profound medical, ethical, and social concerns raised by the possibility of human cloning, but otherwise retains present law and adds legislative findings and based upon such findings prohibits both cloning to produce children and cloning for biomedical research.

Present 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 deletes present law and instead defines "asexual production", "human cloning", "oocyte", "somatic cell", and "somatic cell nuclear transfer".

Proposed law expands the prohibition of human cloning to include any person or entity, public or private, that intentionally or knowingly:

- (1) Performs or attempts to perform human cloning.
- (2) Participates in an attempt to perform human cloning.
- (3) Transfers, ships, or receives for any purpose a human organism produced by human cloning, or any product derived from such human organism.
- (4) Imports for any purpose a human organism produced by human cloning, or any product derived from such human organism.

Proposed law expands exceptions to include in vitro fertilization, administration of fertility enhancing drugs, and certain techniques to produce organisms other than human embryos.

Proposed law retains provisions providing for penalties and disciplinary action for violations of present law.

Proposed law repeals Section 3 of Act No. 788 of the 1999 R.S.

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

(Amends R.S. 40:1299.36, 1299.36.1, and 1299.36.2; Repeals Section 3 of Act No. 788 of the 1999 R.S.)