

109TH CONGRESS
1ST SESSION

S. 876

To prohibit human cloning and protect stem cell research.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2005

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. KENNEDY, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit human cloning and protect stem cell research.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Human Cloning Ban
5 and Stem Cell Research Protection Act of 2005”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to prohibit human
8 cloning and to protect important areas of medical re-
9 search, including stem cell research.

1 **TITLE I—PROHIBITION ON**
 2 **HUMAN CLONING**

3 **SEC. 101. PROHIBITION ON HUMAN CLONING.**

4 (a) IN GENERAL.—Title 18, United States Code, is
 5 amended by inserting after chapter 15, the following:

6 **“CHAPTER 16—PROHIBITION ON HUMAN**
 7 **CLONING**

“Sec.

“301. Prohibition on human cloning.

8 **“§ 301. Prohibition on human cloning**

9 “(a) DEFINITIONS.—In this section:

10 “(1) HUMAN CLONING.—The term ‘human
 11 cloning’ means implanting or attempting to implant
 12 the product of nuclear transplantation into a uterus
 13 or the functional equivalent of a uterus.

14 “(2) HUMAN SOMATIC CELL.—The term
 15 ‘human somatic cell’ means any human cell other
 16 than a haploid germ cell.

17 “(3) NUCLEAR TRANSPLANTATION.—The term
 18 ‘nuclear transplantation’ means transferring the nu-
 19 cleus of a human somatic cell into an oocyte from
 20 which the nucleus or all chromosomes have been or
 21 will be removed or rendered inert.

22 “(4) NUCLEUS.—The term ‘nucleus’ means the
 23 cell structure that houses the chromosomes.

1 “(5) OOCYTE.—The term ‘oocyte’ means the fe-
2 male germ cell, the egg.

3 “(6) UNFERTILIZED BLASTOCYST.—The term
4 ‘unfertilized blastocyst’ means an intact cellular
5 structure that is the product of nuclear transplan-
6 tation. Such term shall not include stem cells, other
7 cells, cellular structures, or biological products de-
8 rived from an intact cellular structure that is the
9 product of nuclear transplantation.

10 “(b) PROHIBITIONS ON HUMAN CLONING.—It shall
11 be unlawful for any person or other legal entity, public
12 or private—

13 “(1) to conduct or attempt to conduct human
14 cloning;

15 “(2) to ship the product of nuclear transplan-
16 tation in interstate or foreign commerce for the pur-
17 pose of human cloning in the United States or else-
18 where; or

19 “(3) to export to a foreign country an
20 unfertilized blastocyst if such country does not pro-
21 hibit human cloning.

22 “(c) PROTECTION OF RESEARCH.—Nothing in this
23 section shall be construed to restrict practices not ex-
24 pressly prohibited in this section.

25 “(d) PENALTIES.—

1 “(1) CRIMINAL PENALTIES.—Whoever inten-
2 tionally violates paragraph (1), (2), or (3) of sub-
3 section (b) shall be fined under this title and impris-
4 oned not more than 10 years.

5 “(2) CIVIL PENALTIES.—Whoever intentionally
6 violates paragraph (1), (2), or (3) of subsection (b)
7 shall be subject to a civil penalty of \$1,000,000 or
8 three times the gross pecuniary gain resulting from
9 the violation, whichever is greater.

10 “(3) FORFEITURE.—Any property, real or per-
11 sonal, derived from or used to commit a violation or
12 attempted violation of the provisions of subsection
13 (b), or any property traceable to such property, shall
14 be subject to forfeiture to the United States in ac-
15 cordance with the procedures set forth in chapter 46
16 of title 18, United States Code.

17 “(e) RIGHT OF ACTION.—Nothing in this section
18 shall be construed to give any individual or person a pri-
19 vate right of action.”.

20 **SEC. 102. OVERSIGHT REPORTS ON ACTIONS TO ENFORCE**
21 **CERTAIN PROHIBITIONS.**

22 (a) REPORT ON ACTIONS BY ATTORNEY GENERAL TO
23 ENFORCE CHAPTER 16 OF TITLE 18.—Not later than 1
24 year after the date of enactment of this Act, the Comp-
25 troller General shall prepare and submit to the Committee

1 on the Judiciary of the Senate and the Committee on the
2 Judiciary of the House of Representatives a report that—

3 (1) describes the actions taken by the Attorney
4 General to enforce the provisions of chapter 16 of
5 title 18, United States Code (as added by section
6 101);

7 (2) describes the personnel and resources the
8 Attorney General has utilized to enforce the provi-
9 sions of such chapter; and

10 (3) contain a list of any violations, if any, of
11 the provisions of such chapter 16.

12 (b) REPORT ON ACTIONS OF STATE ATTORNEYS
13 GENERAL TO ENFORCE SIMILAR STATE LAWS.—

14 (1) DEFINITION.—In this subsection and sub-
15 section (c), the term “similar State law relating to
16 human cloning” means a State or local law that pro-
17 vides for the imposition of criminal penalties on indi-
18 viduals who are determined to be conducting or at-
19 tempting to conduct human cloning (as defined in
20 section 301 of title 18, United States Code (as
21 added by section 101)).

22 (2) REPORT.—Not later than 1 year after the
23 date of enactment of this Act, the Comptroller Gen-
24 eral shall prepare and submit to the Committee on
25 the Judiciary of the Senate and the Committee on

1 the Judiciary of the House of Representatives a re-
 2 port that—

3 (A) describes any similar State law relat-
 4 ing to human cloning;

5 (B) describes the actions taken by the
 6 State attorneys general to enforce the provi-
 7 sions of any similar State law relating to
 8 human cloning;

9 (C) contains a list of violations, if any, of
 10 the provisions of any similar State law relating
 11 to human cloning; and

12 (D) contains a list of any individual who,
 13 or organization that, has violated, or has been
 14 charged with violating, any similar State law re-
 15 lating to human cloning.

16 (c) REPORT ON COORDINATION OF ENFORCEMENT
 17 ACTIONS AMONG THE FEDERAL AND STATE AND LOCAL
 18 GOVERNMENTS WITH RESPECT TO HUMAN CLONING.—

19 Not later than 1 year after the date of enactment of this
 20 Act, the Comptroller General shall prepare and submit to
 21 the Committee on the Judiciary of the Senate and the
 22 Committee on the Judiciary of the House of Representa-
 23 tives a report that—

24 (1) describes how the Attorney General coordi-
 25 nates the enforcement of violations of chapter 16 of

1 title 18, United States Code (as added by section
2 101), with enforcement actions taken by State or
3 local government law enforcement officials with re-
4 spect to similar State laws relating to human
5 cloning; and

6 (2) describes the status and disposition of—

7 (A) Federal appellate litigation with re-
8 spect to such chapter 16 and State appellate
9 litigation with respect to similar State laws re-
10 lating to human cloning; and

11 (B) civil litigation, including actions to ap-
12 point guardians, related to human cloning.

13 (d) REPORT ON INTERNATIONAL LAWS RELATING TO
14 HUMAN CLONING.—Not later than 1 year after the date
15 of enactment of this Act, the Comptroller General shall
16 prepare and submit to the Committee on the Judiciary of
17 the Senate and the Committee on the Judiciary of the
18 House of Representatives a report that—

19 (1) describes the laws adopted by foreign coun-
20 tries related to human cloning;

21 (2) describes the actions taken by the chief law
22 enforcement officer in each foreign country that has
23 enacted a law described in paragraph (1) to enforce
24 such law; and

1 (3) describes the multilateral efforts of the
 2 United Nations and elsewhere to ban human cloning.

3 **TITLE II—ETHICAL REQUIRE-**
 4 **MENTS FOR NUCLEAR TRANS-**
 5 **PLANTATION RESEARCH**

6 **SEC. 201. ETHICAL REQUIREMENTS FOR NUCLEAR TRANS-**
 7 **PLANTATION RESEARCH.**

8 Title IV of the Public Health Service Act (42 U.S.C.
 9 281 et seq.) is amended by adding at the end the fol-
 10 lowing:

11 **“PART J—ETHICAL REQUIREMENTS FOR**
 12 **NUCLEAR TRANSPLANTATION RESEARCH**

13 **“SEC. 499A. ETHICAL REQUIREMENTS FOR NUCLEAR**
 14 **TRANSPLANTATION RESEARCH, INCLUDING**
 15 **INFORMED CONSENT, INSTITUTIONAL RE-**
 16 **VIEW BOARD REVIEW, AND PROTECTION FOR**
 17 **SAFETY AND PRIVACY.**

18 “(a) DEFINITIONS.—

19 “(1) IN GENERAL.—The definitions contained
 20 in section 301(a) of title 18, United States Code,
 21 shall apply for purposes of this section.

22 “(2) OTHER DEFINITIONS.—In this section:

23 “(A) DONATING.—The term ‘donating’
 24 means giving without receiving valuable consid-
 25 eration.

1 “(B) FERTILIZATION.—The term ‘fertiliza-
 2 tion’ means the fusion of an oocyte containing
 3 a haploid nucleus with a male gamete (sperm
 4 cell).

5 “(C) VALUABLE CONSIDERATION.—The
 6 term ‘valuable consideration’ does not include
 7 reasonable payments—

8 “(i) associated with the transpor-
 9 tation, processing, preservation, or storage
 10 of a human oocyte or of the product of nu-
 11 clear transplantation research; or

12 “(ii) to compensate a donor of one or
 13 more human oocytes for the time or incon-
 14 venience associated with such donation.

15 “(b) APPLICABILITY OF FEDERAL ETHICAL STAND-
 16 ARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Re-
 17 search involving nuclear transplantation shall be con-
 18 ducted in accordance with subpart A of part 46 of title
 19 45, or parts 50 and 56 of title 21, Code of Federal Regula-
 20 tions (as in effect on the date of enactment of the Human
 21 Cloning Ban and Stem Cell Research Protection Act of
 22 2003), as applicable.

23 “(c) PROHIBITION ON CONDUCTING NUCLEAR
 24 TRANSPLANTATION ON FERTILIZED EGGS.—A somatic

1 cell nucleus shall not be transplanted into a human oocyte
2 that has undergone or will undergo fertilization.

3 “(d) FOURTEEN-DAY RULE.—An unfertilized blasto-
4 cyst shall not be maintained after more than 14 days from
5 its first cell division, not counting any time during which
6 it is stored at temperatures less than zero degrees centi-
7 grade.

8 “(e) VOLUNTARY DONATION OF OOCYTES.—

9 “(1) INFORMED CONSENT.—In accordance with
10 subsection (b), an oocyte may not be used in nuclear
11 transplantation research unless such oocyte shall
12 have been donated voluntarily by and with the in-
13 formed consent of the woman donating the oocyte.

14 “(2) PROHIBITION ON PURCHASE OR SALE.—
15 No human oocyte or unfertilized blastocyst may be
16 acquired, received, or otherwise transferred for valu-
17 able consideration if the transfer affects interstate
18 commerce.

19 “(f) SEPARATION OF IN VITRO FERTILIZATION LAB-
20 ORATORIES FROM LOCATIONS AT WHICH NUCLEAR
21 TRANSPLANTATION IS CONDUCTED.—Nuclear transplan-
22 tation may not be conducted in a laboratory in which
23 human oocytes are subject to assisted reproductive tech-
24 nology treatments or procedures.

1 “(g) CIVIL PENALTIES.—Whoever intentionally vio-
2 lates any provision of subsections (b) through (f) shall be
3 subject to a civil penalty in an amount that is appropriate
4 for the violation involved, but not more than \$250,000.”.

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