

By: Representatives Wells-Smith, Fillingane

To: Public Health and Human  
Services

## HOUSE BILL NO. 1353

1 AN ACT ENTITLED THE HUMAN CLONING PROHIBITION ACT; TO PROVIDE  
2 DEFINITIONS; TO MAKE IT UNLAWFUL FOR ANY PERSON OR ENTITY TO  
3 PERFORM, ATTEMPT TO PERFORM, PARTICIPATE IN OR TRANSFER OR RECEIVE  
4 THE PRODUCT OF HUMAN CLONING; TO PROVIDE CRIMINAL PENALTIES FOR  
5 VIOLATIONS OF THIS ACT; TO AMEND SECTION 73-25-29, MISSISSIPPI  
6 CODE OF 1972, TO INCLUDE ANY VIOLATION OF THE HUMAN CLONING ACT AS  
7 UNPROFESSIONAL CONDUCT AND GROUNDS FOR LICENSURE SUSPENSION,  
8 REVOCATION OR NONRENEWAL FOR LICENSED PHYSICIANS; AND FOR RELATED  
9 PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** This act may be known and cited as the "Human  
12 Cloning Prohibition Act."

13 **SECTION 2.** (1) The Legislature of the State of Mississippi  
14 finds that:

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

20 (b) Efforts to create human beings by cloning mark a  
21 new and decisive step toward turning human reproduction into a  
22 manufacturing process in which human beings are made in  
23 laboratories to preordained specifications and, potentially, in  
24 multiple copies;

25 (c) Creating cloned live-born human children,  
26 "cloning-to-produce-children," begins by creating cloned human  
27 beings at the embryonic stage of life, a process which some also  
28 propose as a way of creating human embryos for destructive  
29 research as sources of stem cells and tissues for possible  
30 treatment of other humans, "cloning-for-biomedical-research";

31           (d) Many scientists agree that attempts at  
32 "cloning-to-produce-children" pose a massive risk of either  
33 producing children who are stillborn, unhealthy or severely  
34 disabled, and that attempts "cloning-for-biomedical-research"  
35 always results in the destruction of human beings at the embryonic  
36 stage of life when their stem cells are harvested;

37           (e) The prospect of creating new human life solely to  
38 be exploited ("cloning-to-produce-children") or destroyed  
39 ("cloning-for-biomedical research") in these ways have been  
40 condemned on moral grounds by many as displaying a profound  
41 disrespect for life;

42           (f) The distinction between "therapeutic" and  
43 "reproductive" cloning is a false distinction scientifically  
44 because both begin with the reproduction of a human being at the  
45 embryonic stage of life, one destined for implantation in a womb,  
46 one destined for destructive farming of its stem cells.  
47 Regardless of its ultimate destiny, all human embryos are  
48 simultaneously human beings;

49           (g) It will be nearly impossible to ban only attempts  
50 at "cloning-to-produce-children" if  
51 "cloning-for-biomedical-research" is allowed because:

52           (i) Cloning would take place within the privacy of  
53 a doctor-patient relationship;

54           (ii) The implantation of embryos to begin a  
55 pregnancy is a simple procedure; and

56           (iii) Any governmental effort to prevent the  
57 implantation of an existing cloned embryo, or to prevent birth  
58 once implantation has occurred would raise substantial moral,  
59 legal and practical issues.

60           (2) Based on the above findings, it is the purpose of this  
61 act to prohibit the use of cloning technology to initiate the  
62 development of new human beings at the embryonic stage of life for  
63 any purpose.

64           **SECTION 3.** For purposes of this act:

65           (a) "Human cloning" means human asexual reproduction,  
66 accomplished by introducing the genetic material of a human  
67 somatic cell into an oocyte whose nucleus has been removed or  
68 inactivated, to produce a living organism with a human or  
69 predominantly human genetic constitution.

70           (b) "Somatic cell" means a cell having a complete set  
71 of chromosomes obtained from a living or deceased human body at  
72 any state of development.

73           (c) "Oocyte" means the human female germ cell (the  
74 egg).

75           (d) "Embryo" means an organism of the species homo  
76 sapiens from the single cell stage to eight (8) weeks'  
77 development.

78           (e) "Fetus" means an organism of the species homo  
79 sapiens from eight (8) weeks' development until complete expulsion  
80 or extraction from a woman's body, or removal from an artificial  
81 womb or other similar environment designed to nurture the  
82 development of such organism.

83           **SECTION 4.** It shall be unlawful for any person or entity,  
84 public or private, to intentionally or knowingly:

85           (a) Perform, or attempt to perform, human cloning;

86           (b) Participate in an attempt to perform human cloning;

87           (c) Transfer or receive the product of human cloning  
88 for any purpose; or

89           (d) Transfer or receive, in whole or in part, any  
90 oocyte, embryo, fetus or human somatic cell for the purpose of  
91 human cloning.

92           **SECTION 5.** Nothing in this act shall restrict areas of  
93 scientific research not specifically prohibited by this act,  
94 including in vitro fertilization, the administration of fertility  
95 enhancing drugs, research in the use of nuclear transfer or other  
96 cloning techniques to produce molecules, DNA, tissues, organs,

97 plants or animals other than humans or cells other than human  
98 embryos.

99 **SECTION 6.** (1) Criminal penalties:

100 (a) Any person or entity that violates Section 3(a) or  
101 3(b) of this act shall be guilty of a felony, punishable upon  
102 conviction, by a fine of Ten Thousand Dollars (\$10,000.00) and/or  
103 imprisonment for not more than five (5) years in the State  
104 Penitentiary.

105 (b) Any person or entity that violates Section 3(c) or  
106 3(d) of this act shall be guilty of a misdemeanor, punishable upon  
107 conviction thereof, for a fine of not more than One Thousand  
108 Dollars (\$1,000.00) and/or imprisonment for not more than one (1)  
109 year.

110 (2) Civil penalty. Any person or entity that violates any  
111 provision of this act and derives a pecuniary gain from such  
112 violation shall be fined Five Thousand Dollars (\$5,000.00) or  
113 twice the amount of gross gain, or any amount intermediate between  
114 the foregoing, at the discretion of the court.

115 (3) Trade, occupation or profession. Any violation of this  
116 act may be the basis (1) for denying an application for, (2) for  
117 denying an application for the renewal of, or (3) revoking any  
118 license, permit, certificate, or any other form of permission  
119 required to practice or engage in a trade, occupation or  
120 profession.

121 **SECTION 7.** Section 73-25-29, Mississippi Code of 1972, is  
122 amended as follows:

123 73-25-29. The grounds for the nonissuance, suspension,  
124 revocation or restriction of a license or the denial of  
125 reinstatement or renewal of a license are:

126 (1) Habitual personal use of narcotic drugs, or any  
127 other drug having addiction-forming or addiction-sustaining  
128 liability.

129           (2) Habitual use of intoxicating liquors, or any  
130 beverage, to an extent which affects professional competency.

131           (3) Administering, dispensing or prescribing any  
132 narcotic drug, or any other drug having addiction-forming or  
133 addiction-sustaining liability otherwise than in the course of  
134 legitimate professional practice.

135           (4) Conviction of violation of any federal or state law  
136 regulating the possession, distribution or use of any narcotic  
137 drug or any drug considered a controlled substance under state or  
138 federal law, a certified copy of the conviction order or judgment  
139 rendered by the trial court being prima facie evidence thereof,  
140 notwithstanding the pendency of any appeal.

141           (5) Procuring, or attempting to procure, or aiding in,  
142 an abortion that is not medically indicated.

143           (6) Conviction of a felony or misdemeanor involving  
144 moral turpitude, a certified copy of the conviction order or  
145 judgment rendered by the trial court being prima facie evidence  
146 thereof, notwithstanding the pendency of any appeal.

147           (7) Obtaining or attempting to obtain a license by  
148 fraud or deception.

149           (8) Unprofessional conduct, which includes, but is not  
150 limited to:

151                   (a) Practicing medicine under a false or assumed  
152 name or impersonating another practitioner, living or dead.

153                   (b) Knowingly performing any act which in any way  
154 assists an unlicensed person to practice medicine.

155                   (c) Making or willfully causing to be made any  
156 flamboyant claims concerning the licensee's professional  
157 excellence.

158                   (d) Being guilty of any dishonorable or unethical  
159 conduct likely to deceive, defraud or harm the public.

160                   (e) Obtaining a fee as personal compensation or  
161 gain from a person on fraudulent representation, a disease or

162 injury condition generally considered incurable by competent  
163 medical authority in the light of current scientific knowledge and  
164 practice can be cured or offering, undertaking, attempting or  
165 agreeing to cure or treat the same by a secret method, which he  
166 refuses to divulge to the board upon request.

167 (f) Use of any false, fraudulent or forged  
168 statement or document, or the use of any fraudulent, deceitful,  
169 dishonest or immoral practice in connection with any of the  
170 licensing requirements, including the signing in his professional  
171 capacity any certificate that is known to be false at the time he  
172 makes or signs such certificate.

173 (g) Failing to identify a physician's school of  
174 practice in all professional uses of his name by use of his earned  
175 degree or a description of his school of practice.

176 (h) Any violation of the Human Cloning Prohibition  
177 Act, Sections 1 through 6 of House Bill No. 1353, 2005 Regular  
178 Session.

179 (9) The refusal of a licensing authority of another  
180 state or jurisdiction to issue or renew a license, permit or  
181 certificate to practice medicine in that jurisdiction or the  
182 revocation, suspension or other restriction imposed on a license,  
183 permit or certificate issued by such licensing authority which  
184 prevents or restricts practice in that jurisdiction, a certified  
185 copy of the disciplinary order or action taken by the other state  
186 or jurisdiction being prima facie evidence thereof,  
187 notwithstanding the pendency of any appeal.

188 (10) Surrender of a license or authorization to  
189 practice medicine in another state or jurisdiction or surrender of  
190 membership on any medical staff or in any medical or professional  
191 association or society while under disciplinary investigation by  
192 any of those authorities or bodies for acts or conduct similar to  
193 acts or conduct which would constitute grounds for action as  
194 defined in this section.

195           (11) Final sanctions imposed by the United States  
196 Department of Health and Human Services, Office of Inspector  
197 General or any successor federal agency or office, based upon a  
198 finding of incompetency, gross misconduct or failure to meet  
199 professionally recognized standards of health care; a certified  
200 copy of the notice of final sanction being prima facie evidence  
201 thereof. As used in this paragraph, the term "final sanction"  
202 means the written notice to a physician from the United States  
203 Department of Health and Human Services, Officer of Inspector  
204 General or any successor federal agency or office, which  
205 implements the exclusion.

206           (12) Failure to furnish the board, its investigators or  
207 representatives information legally requested by the board.

208           (13) Violation of any provision(s) of the Medical  
209 Practice Act or the rules and regulations of the board or of any  
210 order, stipulation or agreement with the board.

211           In addition to the grounds specified above, the board shall  
212 be authorized to suspend the license of any licensee for being out  
213 of compliance with an order for support, as defined in Section  
214 93-11-153. The procedure for suspension of a license for being  
215 out of compliance with an order for support, and the procedure for  
216 the reissuance or reinstatement of a license suspended for that  
217 purpose, and the payment of any fees for the reissuance or  
218 reinstatement of a license suspended for that purpose, shall be  
219 governed by Section 93-11-157 or 93-11-163, as the case may be.  
220 If there is any conflict between any provision of Section  
221 93-11-157 or 93-11-163 and any provision of this chapter, the  
222 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
223 shall control.

224           **SECTION 8.** The provisions of this act are declared to be  
225 severable, and if any provision, word, phrase or clause of this  
226 act or the application thereof to any person shall be held

227 invalid, such invalidity shall not affect the validity of the  
228 remaining portions of this act.

229           **SECTION 9.** This act shall take effect and be in force from  
230 and after July 1, 2005.