

By: Senator(s) White, Little, Browning,
Carmichael, Davis, Flowers, Gordon, Hewes,
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To: Public Health and
Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2593

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.** For purposes of this act:

14 (a) "Human cloning" means human asexual reproduction,
15 accomplished by introducing the genetic material of a human
16 somatic cell into an oocyte whose nucleus has been removed or
17 inactivated, to produce a living organism with a human or
18 predominantly human genetic constitution.

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

22 (c) "Oocyte" means the human female germ cell (the
23 egg).

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

27 (e) "Fetus" means an organism of the species homo
28 sapiens from eight (8) weeks' development until complete expulsion
29 or extraction from a woman's body, or removal from an artificial

30 womb or other similar environment designed to nurture the
31 development of such organism.

32 **SECTION 3.** It shall be unlawful for any person or entity,
33 public or private, to intentionally or knowingly:

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

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

36 (c) Transfer or receive the product of human cloning
37 for any purpose; or

38 (d) Transfer or receive, in whole or in part, any
39 oocyte, embryo, fetus or human somatic cell for the purpose of
40 human cloning.

41 **SECTION 4.** Nothing in this act shall restrict areas of
42 scientific research not specifically prohibited by this act,
43 including in vitro fertilization, the administration of fertility
44 enhancing drugs, research in the use of nuclear transfer or other
45 cloning techniques to produce molecules, DNA, tissues, organs,
46 plants or animals other than humans or cells other than human
47 embryos.

48 **SECTION 5.** (1) Criminal penalties:

49 (a) Any person or entity that violates Section 3(a) or
50 3(b) of this act shall be guilty of a felony, punishable upon
51 conviction, by a fine of Ten Thousand Dollars (\$10,000.00) and/or
52 imprisonment for not more than five (5) years in the State
53 Penitentiary.

54 (b) Any person or entity that violates Section 3(c) or
55 3(d) of this act shall be guilty of a misdemeanor, punishable upon
56 conviction thereof, for a fine of not more than One Thousand
57 Dollars (\$1,000.00) and/or imprisonment for not more than one (1)
58 year.

59 (2) Civil penalty. Any person or entity that violates any
60 provision of this act and derives a pecuniary gain from such
61 violation shall be fined Five Thousand Dollars (\$5,000.00) or

62 twice the amount of gross gain, or any amount intermediate between
63 the foregoing, at the discretion of the court.

64 (3) Trade, occupation or profession. Any violation of this
65 act may be the basis (1) for denying an application for, (2) for
66 denying an application for the renewal of, or (3) revoking any
67 license, permit, certificate, or any other form of permission
68 required to practice or engage in a trade, occupation or
69 profession.

70 **SECTION 6.** Section 73-25-29, Mississippi Code of 1972, is
71 amended as follows:

72 73-25-29. The grounds for the nonissuance, suspension,
73 revocation or restriction of a license or the denial of
74 reinstatement or renewal of a license are:

75 (1) Habitual personal use of narcotic drugs, or any
76 other drug having addiction-forming or addiction-sustaining
77 liability.

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

80 (3) Administering, dispensing or prescribing any
81 narcotic drug, or any other drug having addiction-forming or
82 addiction-sustaining liability otherwise than in the course of
83 legitimate professional practice.

84 (4) Conviction of violation of any federal or state law
85 regulating the possession, distribution or use of any narcotic
86 drug or any drug considered a controlled substance under state or
87 federal law, a certified copy of the conviction order or judgment
88 rendered by the trial court being prima facie evidence thereof,
89 notwithstanding the pendency of any appeal.

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

92 (6) Conviction of a felony or misdemeanor involving
93 moral turpitude, a certified copy of the conviction order or

94 judgment rendered by the trial court being prima facie evidence
95 thereof, notwithstanding the pendency of any appeal.

96 (7) Obtaining or attempting to obtain a license by
97 fraud or deception.

98 (8) Unprofessional conduct, which includes, but is not
99 limited to:

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

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

104 (c) Making or willfully causing to be made any
105 flamboyant claims concerning the licensee's professional
106 excellence.

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

109 (e) Obtaining a fee as personal compensation or
110 gain from a person on fraudulent representation, a disease or
111 injury condition generally considered incurable by competent
112 medical authority in the light of current scientific knowledge and
113 practice can be cured or offering, undertaking, attempting or
114 agreeing to cure or treat the same by a secret method, which he
115 refuses to divulge to the board upon request.

116 (f) Use of any false, fraudulent or forged
117 statement or document, or the use of any fraudulent, deceitful,
118 dishonest or immoral practice in connection with any of the
119 licensing requirements, including the signing in his professional
120 capacity any certificate that is known to be false at the time he
121 makes or signs such certificate.

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

125 (h) Any violation of the Human Cloning Prohibition
126 Act, Sections 1 through 6 of Senate Bill No. 2593, 2005 Regular
127 Session.

128 (9) The refusal of a licensing authority of another
129 state or jurisdiction to issue or renew a license, permit or
130 certificate to practice medicine in that jurisdiction or the
131 revocation, suspension or other restriction imposed on a license,
132 permit or certificate issued by such licensing authority which
133 prevents or restricts practice in that jurisdiction, a certified
134 copy of the disciplinary order or action taken by the other state
135 or jurisdiction being prima facie evidence thereof,
136 notwithstanding the pendency of any appeal.

137 (10) Surrender of a license or authorization to
138 practice medicine in another state or jurisdiction or surrender of
139 membership on any medical staff or in any medical or professional
140 association or society while under disciplinary investigation by
141 any of those authorities or bodies for acts or conduct similar to
142 acts or conduct which would constitute grounds for action as
143 defined in this section.

144 (11) Final sanctions imposed by the United States
145 Department of Health and Human Services, Office of Inspector
146 General or any successor federal agency or office, based upon a
147 finding of incompetency, gross misconduct or failure to meet
148 professionally recognized standards of health care; a certified
149 copy of the notice of final sanction being prima facie evidence
150 thereof. As used in this paragraph, the term "final sanction"
151 means the written notice to a physician from the United States
152 Department of Health and Human Services, Officer of Inspector
153 General or any successor federal agency or office, which
154 implements the exclusion.

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

157 (13) Violation of any provision(s) of the Medical
158 Practice Act or the rules and regulations of the board or of any
159 order, stipulation or agreement with the board.

160 In addition to the grounds specified above, the board shall
161 be authorized to suspend the license of any licensee for being out
162 of compliance with an order for support, as defined in Section
163 93-11-153. The procedure for suspension of a license for being
164 out of compliance with an order for support, and the procedure for
165 the reissuance or reinstatement of a license suspended for that
166 purpose, and the payment of any fees for the reissuance or
167 reinstatement of a license suspended for that purpose, shall be
168 governed by Section 93-11-157 or 93-11-163, as the case may be.
169 If there is any conflict between any provision of Section
170 93-11-157 or 93-11-163 and any provision of this chapter, the
171 provisions of Section 93-11-157 or 93-11-163, as the case may be,
172 shall control.

173 **SECTION 7.** The provisions of this act are declared to be
174 severable, and if any provision, word, phrase or clause of this
175 act or the application thereof to any person shall be held
176 invalid, such invalidity shall not affect the validity of the
177 remaining portions of this act.

178 **SECTION 8.** This act shall take effect and be in force from
179 and after July 1, 2005.