

By: Senator(s) White

To: Public Health and Welfare

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.** (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 Senate Bill No. 2593, 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.