

By: Senator(s) White

To: Public Health and
Welfare

SENATE BILL NO. 2712

1 AN ACT ENTITLED THE "HUMAN DIGNITY PROTECTION ACT"; TO
2 PROVIDE DEFINITIONS; TO PROHIBIT DESTRUCTIVE EMBRYO RESEARCH; TO
3 PROHIBIT CLONING; TO PROVIDE LIMITATIONS; TO PROVIDE CRIMINAL
4 PENALTIES; TO PROVIDE CIVIL PENALTIES; TO AMEND SECTION 73-25-29,
5 MISSISSIPPI CODE OF 1972, TO INCLUDE VIOLATIONS OF THIS ACT AS
6 UNPROFESSIONAL CONDUCT AND GROUNDS FOR DISCIPLINARY ACTION AGAINST
7 A LICENSED PHYSICIAN; AND FOR RELATED PURPOSES.

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

9 **SECTION 1. Title.** This act may be known and cited as the
10 "Human Dignity Protection Act."

11 **SECTION 2. Legislative findings.** (1) The Legislature of
12 Mississippi finds that:

13 (a) Human embryos are human beings at the earliest
14 stage of development.

15 (b) Some human embryos are being created and then
16 destroyed to obtain stem cells for research.

17 (c) Destructive human embryo research to obtain
18 embryonic stem cells raises grave ethical, scientific and medical
19 issues that must be addressed.

20 (d) The ethical justification for medical and
21 scientific research cannot be based upon the dehumanizing and
22 utilitarian premise that the end justifies any means.

23 (e) Medical research and treatment does not require the
24 destruction of human life, because it can be ethically pursued in
25 other ways, including the use of adult stem cells.

26 (f) At least one (1) company has announced that they
27 have successfully cloned a human being at the early embryonic
28 stage of life, and others have announced that they will attempt to

29 clone a human being using the technique known as somatic cell
30 nuclear transfer.

31 (g) Efforts to create human beings by cloning mark a
32 new and decisive step toward turning human reproduction into a
33 manufacturing process in which human beings are made in
34 laboratories to preordained specifications and, potentially, in
35 multiple copies.

36 (h) Creating cloned live-born human children,
37 "cloning-to-produce-children." begins by creating cloned human
38 beings at the embryonic stage of life, a process which some also
39 propose as a way of creating human embryos for destructive
40 research as sources of stem cells and tissues for possible
41 treatment of other humans, "cloning-for-biomedical-research."

42 (i) Many scientists agree that attempts at
43 "cloning-to-produce-children" pose a massive risk of either
44 producing children who are stillborn, unhealthy or severely
45 disabled, and that attempts at "cloning-for-biomedical-research"
46 always result in the destruction of human beings at the embryonic
47 stage of life when their stem cells are harvested.

48 (j) The prospect of creating new human life solely
49 to be exploited ("cloning-to-produce-children") or destroyed
50 ("cloning-for-biomedical-research") in these ways have been
51 condemned on moral grounds by many as displaying a profound
52 disrespect for life.

53 (k) The distinction between "therapeutic" and
54 "reproductive" cloning is a false distinction scientifically
55 because both begin with the reproduction of a human being at the
56 embryonic stage of life, one destined for implantation in a womb,
57 one destined for destructive farming of its stem cells.
58 Regardless of its ultimate destiny, all human embryos are
59 simultaneously human beings.

60 (1) It will be nearly impossible to ban only attempts
61 at "cloning-to-produce-children" if
62 "cloning-for-biomedical-research" is allowed because:

63 (i) cloning would take place within the privacy of
64 a doctor-patient relationship;

65 (ii) the implantation of embryos to begin a
66 pregnancy is a simple procedure; and

67 (iii) Any government effort to prevent the
68 implantation of an existing cloned embryo, or to prevent birth
69 once implantation has occurred would raise substantial moral,
70 legal and practical issues.

71 (2) Based on the above findings, it is the purpose of this
72 act to prohibit destructive human embryo research and the use of
73 cloning technology to initiate the development of new human beings
74 at the embryonic stage of life for any purpose.

75 **SECTION 3. Definitions.** For purposes of this act:

76 (a) "Human embryo" means a genetically complete living
77 organism of the species homo sapiens, from the single-cell stage
78 to eight (8) weeks development, that is not located in a woman's
79 body;

80 (b) "Gamete" means a human sperm or unfertilized human
81 ovum;

82 (c) "Destructive research" means medical procedures,
83 scientific or laboratory research or other kinds of investigation
84 intended or likely kills or injures the subject of such research.
85 It does not include:

86 (i) In vitro fertilization and accompanying embryo
87 transfer to a woman's body; or

88 (ii) Any diagnostic procedures that may benefit
89 the human embryo subject to such tests.

90 (d) "Human cloning" means human asexual reproduction,
91 accomplished by introducing the genetic material from one or more
92 human somatic cells into a fertilized or unfertilized oocyte whose

93 nuclear material has been removed or inactivated, so as to produce
94 an organism, at any stage of development with a human or
95 predominantly human genetic constitution.

96 (e) "Somatic cell" means a cell having a complete set
97 of chromosomes obtained from a living or deceased human body at
98 any stage of development.

99 (f) "Fetus" means an organism of the species homo
100 sapiens from eight (8) weeks' development until complete expulsion
101 or extraction from a woman's body, or removal from an artificial
102 womb or other similar environment designed to nurture the
103 development of such organism.

104 **SECTION 4. Prohibition of destructive embryo research.** It
105 shall be unlawful for any person or entity, public or private, to
106 intentionally or knowingly:

107 (a) Conduct destructive research on a human embryo;

108 (b) Buy, sell, receive or otherwise transfer a human
109 embryo with the knowledge that such embryo will be subjected to
110 destructive research;

111 (c) Buy, sell, receive or otherwise transfer gametes
112 with the knowledge that a human embryo will be produced from such
113 gametes to be used in destructive research.

114 **SECTION 5. Prohibition of cloning.** It shall be unlawful for
115 any person or entity, public or private, to intentionally or
116 knowingly:

117 (a) Perform or attempt to perform human cloning;

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

119 (c) Transfer or receive the product of human cloning
120 for any purpose; or

121 (d) Transfer or receive, in whole or in part, any
122 oocyte, embryo, fetus or human somatic cell, for the purpose of
123 human cloning.

124 **SECTION 6. Limitations.** Nothing in this act shall restrict
125 areas of scientific research not specifically prohibited by this

126 act, including in vitro fertilization, the administration of
127 fertility enhancing drugs, research in the use of nuclear transfer
128 or other cloning techniques to produce molecules, DNA, tissues,
129 organs, plants or animals other than humans, or cells other than
130 human embryos.

131 **SECTION 7. Penalties.** (1) Criminal penalty. Any person or
132 entity that violates Sections 4 or 5 of this act shall be guilty
133 of a crime punishable, upon conviction, by imprisonment for not
134 more than ten (10) years or a fine of not more than Five Thousand
135 Dollars (\$5,000.00), or both.

136 (2) Civil penalty. In addition to criminal penalties in
137 subsection (1), any person or entity that violates any provision
138 of this act and derives a pecuniary gain from such violation shall
139 be fined twice the amount of gross gain, at the discretion of the
140 court.

141 (3) Unprofessional conduct. Any violation of this act shall
142 constitute unprofessional conduct pursuant to Section 73-25-29 for
143 medical doctors, surgeons and osteopathic doctors and shall result
144 in permanent revocation of the violator's license to practice
145 medicine.

146 (4) Trade, occupation or profession. Any violation of this
147 act may be the basis (a) for denying an application for, (b) for
148 denying an application for the renewal of, or (c) revoking any
149 license, permit, certificate or any other form of permission
150 required to practice or engage in a trade, occupation or
151 profession.

152 **SECTION 8. Severability.** The provisions of this act are
153 declared to be severable, and if any provision, word, phrase or
154 clause of this act, or the application thereof to any person,
155 shall be held invalid, such invalidity shall not affect the
156 validity of the remaining portions of this act.

157 **SECTION 9.** Section 73-25-29, Mississippi Code of 1972, is
158 amended as follows:

159 73-25-29. The grounds for the nonissuance, suspension,
160 revocation or restriction of a license or the denial of
161 reinstatement or renewal of a license are:

162 (1) Habitual personal use of narcotic drugs, or any
163 other drug having addiction-forming or addiction-sustaining
164 liability.

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

167 (3) Administering, dispensing or prescribing any
168 narcotic drug, or any other drug having addiction-forming or
169 addiction-sustaining liability otherwise than in the course of
170 legitimate professional practice.

171 (4) Conviction of violation of any federal or state law
172 regulating the possession, distribution or use of any narcotic
173 drug or any drug considered a controlled substance under state or
174 federal law, a certified copy of the conviction order or judgment
175 rendered by the trial court being prima facie evidence thereof,
176 notwithstanding the pendency of any appeal.

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

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

183 (7) Obtaining or attempting to obtain a license by
184 fraud or deception.

185 (8) Unprofessional conduct, which includes, but is not
186 limited to:

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

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

191 (c) Making or willfully causing to be made any
192 flamboyant claims concerning the licensee's professional
193 excellence.

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

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

203 (f) Use of any false, fraudulent or forged
204 statement or document, or the use of any fraudulent, deceitful,
205 dishonest or immoral practice in connection with any of the
206 licensing requirements, including the signing in his professional
207 capacity any certificate that is known to be false at the time he
208 makes or signs such certificate.

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

212 (h) Any violation of Senate Bill No. _____, 2006,
213 Regular Session, (prohibiting human cloning and destructive embryo
214 research).

215 (9) The refusal of a licensing authority of another
216 state or jurisdiction to issue or renew a license, permit or
217 certificate to practice medicine in that jurisdiction or the
218 revocation, suspension or other restriction imposed on a license,
219 permit or certificate issued by such licensing authority which
220 prevents or restricts practice in that jurisdiction, a certified
221 copy of the disciplinary order or action taken by the other state
222 or jurisdiction being prima facie evidence thereof,
223 notwithstanding the pendency of any appeal.

224 (10) Surrender of a license or authorization to practice
225 medicine in another state or jurisdiction or surrender of
226 membership on any medical staff or in any medical or professional
227 association or society while under disciplinary investigation by
228 any of those authorities or bodies for acts or conduct similar to
229 acts or conduct which would constitute grounds for action as
230 defined in this section.

231 (11) Final sanctions imposed by the United States
232 Department of Health and Human Services, Office of Inspector
233 General or any successor federal agency or office, based upon a
234 finding of incompetency, gross misconduct or failure to meet
235 professionally recognized standards of health care; a certified
236 copy of the notice of final sanction being prima facie evidence
237 thereof. As used in this paragraph, the term "final sanction"
238 means the written notice to a physician from the United States
239 Department of Health and Human Services, Office of Inspector
240 General or any successor federal agency or office, which
241 implements the exclusion.

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

244 (13) Violation of any provision(s) of the Medical
245 Practice Act or the rules and regulations of the board or of any
246 order, stipulation or agreement with the board.

247 In addition to the grounds specified above, the board shall
248 be authorized to suspend the license of any licensee for being out
249 of compliance with an order for support, as defined in Section
250 93-11-153. The procedure for suspension of a license for being
251 out of compliance with an order for support, and the procedure for
252 the reissuance or reinstatement of a license suspended for that
253 purpose, and the payment of any fees for the reissuance or
254 reinstatement of a license suspended for that purpose, shall be
255 governed by Section 93-11-157 or 93-11-163, as the case may be.
256 If there is any conflict between any provision of Section

257 93-11-157 or 93-11-163 and any provision of this chapter, the
258 provisions of Section 93-11-157 or 93-11-163, as the case may be,
259 shall control.

260 **SECTION 10.** This act shall take effect and be in force from
261 and after July 1, 2006.