

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.

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

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

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

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

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

SECTION 3. Definitions. For purposes of this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Perform or attempt to perform human cloning;
(b) Participate in an attempt to perform human cloning;
(c) Transfer or receive the product of human cloning for any purpose; or
(d) Transfer or receive, in whole or in part, any oocyte, embryo, fetus or human somatic cell, for the purpose of human cloning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Knowingly performing any act which in any way 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.

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

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

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

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

In addition to the grounds specified above, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. 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.