

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Gannon offered the following:

13 **Amendment (with title amendment)**

14 Remove everything after the enacting clause

16 and insert: Section 877.27, Florida Statutes, is created to  
17 read:

18 877.27 Reproductive Human Cloning Prohibition and  
19 Responsibility Act.--

20 (1) SHORT TITLE.--This section may be cited as the  
21 "Reproductive Human Cloning Prohibition and Responsibility Act  
22 of 2002."

23 (2) DEFINITIONS.--As used in this section:

24 (a) "Reproductive Human cloning" means human asexual  
25 reproduction, accomplished by introducing nuclear material  
26 from one or more human somatic cells into a fertilized or  
27 unfertilized oocyte whose nuclear material has been removed or  
28 inactivated so as to produce a living organism, at any state  
29 of development, that is genetically virtually identical to an  
30 existing or previously existing human organism.

31 (b) "Asexual reproduction" means reproduction not

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1 initiated by the union of oocyte and sperm.

2 (c) "Somatic cell" means a diploid cell having a  
3 complete set of chromosomes obtained or derived from a living  
4 or deceased human body at any stage of development.

5 (3) REPRODUCTIVE HUMAN CLONING PROHIBITED.--It is  
6 unlawful for any person to knowingly:

7 (a) Perform or attempt to perform reproductive human  
8 cloning.

9 (b) Participate or assist in an attempt to perform  
10 reproductive human cloning.

11 (c) Ship or receive for any purpose an embryo produced  
12 by reproductive human cloning or any product derived from such  
13 embryo.

14 (4) PENALTIES.--

15 (a) Any person who violates any provision of  
16 subsection (3) commits a felony of the second degree,  
17 punishable as provided in s. 775.082, s. 775.083, or s.  
18 775.084, and shall be sentenced to a minimum term of  
19 imprisonment of 10 years.

20 (b) Any person who violates any provision of  
21 subsection (3) and derives pecuniary gain from such violation  
22 shall be subject to a civil penalty of not less than \$1  
23 million and not more than an amount equal to the amount of the  
24 gross pecuniary gain derived from the violation multiplied by  
25 2, if that amount is greater than \$1 million.

26 (5) CONSTRUCTION.--Nothing in this section shall be  
27 construed to restrict areas of scientific research not  
28 specifically prohibited by this section, including research in  
29 the use of nuclear transfer or other cloning techniques to  
30 produce molecules, DNA, cells other than human embryos or  
31 animals.

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1           (6) CIVIL REMEDIES; ENFORCEMENT.--With respect to any  
2 individual residing in the state who was produced, at any time  
3 and in any jurisdiction, by reproductive human cloning which  
4 would have been prohibited under this section if performed in  
5 this state after the effective date of this section:

6           (a) Any person participating in the production by  
7 reproductive human cloning of such individual shall be jointly  
8 and severally liable to the individual, the individual's  
9 spouse, dependents, and blood relatives, and to any woman  
10 impregnated with the individual, her spouse, and dependents,  
11 for damages for all physical, emotional, economic, or other  
12 injuries suffered by such persons at any time as a result of  
13 the use of reproductive human cloning to produce the  
14 individual. This section shall not give rise to a cause of  
15 action for wrongful life, but shall not exclude any injuries  
16 or damages associated with the continuation of life by the  
17 individual who is a product of reproductive human cloning.

18           (b) Any person participating in the production by  
19 reproductive human cloning of an individual shall be jointly  
20 and severally liable to the individual and the individual's  
21 legal guardian for support and the costs of guardianship  
22 during the individual's minority, as well as for the costs of  
23 any guardian ad litem to represent the interests of the  
24 individual in the courts of this state in any matter related  
25 to the production or legal status of the individual. The  
26 liability created by this paragraph shall not cease at the age  
27 of majority if the individual suffers thereafter from any  
28 congenital defect or other disability related to the  
29 production of the individual by reproductive human cloning.

30           (c) All liabilities created under this section shall  
31 survive the death of an individual produced by reproductive

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1 human cloning. All persons and entities participating in the  
2 production by reproductive human cloning of an individual  
3 shall be jointly and severally liable to the estate of the  
4 individual for damages for injuries resulting from the death  
5 of the individual if the cause of death is related to the  
6 production of the individual by reproductive human cloning or  
7 any congenital defect in the individual. If the individual  
8 dies intestate leaving no descendants or other dependents, the  
9 cause of action created by this paragraph shall accrue to the  
10 State of Florida. In every such action for the death of the  
11 individual, exemplary damages in an amount of at least  
12 \$100,000 shall be awarded.

13 (d) The rights of recovery created by this section  
14 shall be cumulative to all other legal rights. No liability  
15 created by this section shall be reduced by the payment of any  
16 other liability or by the recovery of damages from any other  
17 source or under any other legal theory.

18 (e) The liabilities created by this section shall be  
19 strictly enforced without regard to negligence or fault. The  
20 status of a person as plaintiff or injured party upon any  
21 cause of action or legal theory shall not negate the status of  
22 such person as defendant or reduce their liability to other  
23 claimants under any cause of action created by this section.  
24 The liabilities created by this section may not be waived by  
25 any individual, nor compromised except as may be implemented  
26 through an enforceable judgment of a court of this state. No  
27 affirmative defenses other than lack of jurisdiction, res  
28 judicata, satisfaction of the liability, or expiration of the  
29 statute of limitations period provided in paragraph (i) shall  
30 be allowed in any action brought pursuant to this section.

31 (f) The domicile in the State of Florida of any

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1 injured person having a cause of action under this section, or  
2 the incurring within this state of any damages recoverable  
3 under this section, shall be sufficient to establish the  
4 jurisdiction of the law of this state and its courts for all  
5 related claims arising under this section.

6 (g) Any state agency providing services to any person  
7 entitled to recovery under this section, and any private  
8 insurance company legally obligated to pay medical costs or  
9 other compensation related to conditions associated with  
10 injuries for which recovery is authorized under this act,  
11 shall be subrogated to the rights to recover under this  
12 section of any person receiving such services or benefiting  
13 from such insurance. Such subrogation shall not exceed the  
14 full cost of such services or insurance payments.

15 (h) The Attorney General is hereby empowered to bring  
16 civil actions in this or any appropriate jurisdiction to  
17 enforce the rights and obligations created under this section  
18 on behalf of the state or any resident of the state.

19 (i) An action under this section must be commenced  
20 before the expiration of 5 years after the death of the  
21 individual produced by reproductive human cloning, provided  
22 that an action for support and other damages under paragraph  
23 (b) must be commenced within 5 years after the end of the  
24 period for which liability is imposed under paragraph (b).

25 Section 1. Subsection (9) is added to section 95.11,  
26 Florida Statutes, to read:

27 95.11 Limitations other than for the recovery of real  
28 property.--Actions other than for recovery of real property  
29 shall be commenced as follows:

30 (9) FOR ACTIONS RELATED TO REPRODUCTIVE HUMAN  
31 CLONING.--An action founded upon a violation of s. 877.27(3)

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1 must be commenced as provided in s. 877.27(6).

2 Section 2. Paragraph (i) is added to subsection (2) of  
3 section 775.15, Florida Statutes, to read:

4 775.15 Time limitations.--

5 (2) Except as otherwise provided in this section,  
6 prosecutions for other offenses are subject to the following  
7 periods of limitation:

8 (i) A prosecution for a felony violation of s.  
9 877.27(3) must be commenced within 4 years after the violation  
10 is reported to law enforcement, or within 21 years after the  
11 birth or destruction of an individual produced by reproductive  
12 human cloning, whichever occurs first.

13 Section 3. This act shall take effect upon becoming a  
14 law

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 remove: all of said lines

21 and insert:

22 An act relating to reproductive human cloning;  
23 creating s. 877.27, F.S., the "Reproductive  
24 Human Cloning Prohibition and Responsibility  
25 Act of 2002"; providing definitions; providing  
26 that it is unlawful to perform or attempt to  
27 perform reproductive human cloning, to  
28 participate or assist in an attempt to perform  
29 reproductive human cloning, or to ship or  
30 receive for any purpose an embryo produced by  
31 reproductive human cloning or any product

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1           derived from such embryo; providing a penalty;  
 2           providing civil penalties; providing  
 3           construction with respect to scientific  
 4           research; providing for enforcement of the act;  
 5           providing civil remedies; providing limitations  
 6           on commencement of actions; amending ss. 95.11  
 7           and 775.15, F.S.; providing periods of  
 8           limitations on actions and prosecutions for  
 9           violations of the act; providing an effective  
 10          date.

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