

By Representatives Kallinger, Brummer, Trovillion, Allen,
Bense and Baxley

1 A bill to be entitled
2 An act relating to human cloning; creating s.
3 877.27, F.S., the "Human Cloning Prohibition
4 and Responsibility Act of 2002"; providing
5 definitions; providing that it is unlawful to
6 perform or attempt to perform human cloning, to
7 participate or assist in an attempt to perform
8 human cloning, or to ship or receive for any
9 purpose an embryo produced by human cloning or
10 any product derived from such embryo; providing
11 a penalty; providing civil penalties; providing
12 construction with respect to scientific
13 research; providing for enforcement of the act;
14 providing civil remedies; providing limitations
15 on commencement of actions; amending ss. 95.11
16 and 775.15, F.S.; providing periods of
17 limitations on actions and prosecutions for
18 violations of the act; providing an effective
19 date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 877.27, Florida Statutes, is
24 created to read:

25 877.27 Human Cloning Prohibition and Responsibility
26 Act.--

27 (1) SHORT TITLE.--This section may be cited as the
28 "Human Cloning Prohibition and Responsibility Act of 2002."

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

30 (a) "Human cloning" means human asexual reproduction,
31 accomplished by introducing nuclear material from one or more

1 human somatic cells into a fertilized or unfertilized oocyte
2 whose nuclear material has been removed or inactivated so as
3 to produce a living organism, at any state of development,
4 that is genetically virtually identical to an existing or
5 previously existing human organism.

6 (b) "Asexual reproduction" means reproduction not
7 initiated by the union of oocyte and sperm.

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

11 (d) "Oocyte" means an immature egg cell of the human
12 ovary.

13 (3) HUMAN CLONING PROHIBITED.--It is unlawful for any
14 person to knowingly:

15 (a) Perform or attempt to perform human cloning.

16 (b) Participate or assist in an attempt to perform
17 human cloning.

18 (c) Ship or receive for any purpose an embryo produced
19 by human cloning or any product derived from such embryo.

20 (4) PENALTIES.--

21 (a) Any person who violates any provision of
22 subsection (3) commits a felony of the second degree,
23 punishable as provided in s. 775.082, s. 775.083, or s.
24 775.084, and shall be sentenced to a minimum term of
25 imprisonment of 10 years.

26 (b) Any person who violates any provision of
27 subsection (3) and derives pecuniary gain from such violation
28 shall be subject to a civil penalty of not less than \$1
29 million and not more than an amount equal to the amount of the
30 gross pecuniary gain derived from the violation multiplied by
31 2, if that amount is greater than \$1 million.

1 (5) CONSTRUCTION.--Nothing in this section shall be
2 construed to restrict areas of scientific research not
3 specifically prohibited by this section, including research in
4 the use of nuclear transfer or other cloning techniques to
5 produce molecules, DNA, cells other than human embryos,
6 tissues, organs, plants, or animals.

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

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

24 (b) Any person participating in the production by
25 human cloning of an individual shall be jointly and severally
26 liable to the individual and the individual's legal guardian
27 for support and the costs of guardianship during the
28 individual's minority, as well as for the costs of any
29 guardian ad litem to represent the interests of the individual
30 in the courts of this state in any matter related to the
31 production or legal status of the individual. The liability

1 created by this paragraph shall not cease at the age of
2 majority if the individual suffers thereafter from any
3 congenital defect or other disability related to the
4 production of the individual by human cloning.

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

18 (d) The rights of recovery created by this section
19 shall be cumulative to all other legal rights. No liability
20 created by this section shall be reduced by the payment of any
21 other liability or by the recovery of damages from any other
22 source or under any other legal theory.

23 (e) The liabilities created by this section shall be
24 strictly enforced without regard to negligence or fault. The
25 status of a person as plaintiff or injured party upon any
26 cause of action or legal theory shall not negate the status of
27 such person as defendant or reduce their liability to other
28 claimants under any cause of action created by this section.
29 The liabilities created by this section may not be waived by
30 any individual, nor compromised except as may be implemented
31 through an enforceable judgment of a court of this state. No

1 affirmative defenses other than lack of jurisdiction, res
2 judicata, satisfaction of the liability, or expiration of the
3 statute of limitations period provided in paragraph (i) shall
4 be allowed in any action brought pursuant to this section.

5 (f) The domicile in the State of Florida of any
6 injured person having a cause of action under this section, or
7 the incurring within this state of any damages recoverable
8 under this section, shall be sufficient to establish the
9 jurisdiction of the law of this state and its courts for all
10 related claims arising under this section.

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

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

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

30 Section 2. Subsection (9) is added to section 95.11,
31 Florida Statutes, to read:

