

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 in
9 commerce for any purpose an embryo produced by
10 human cloning or any product derived from such
11 embryo; providing a penalty; providing civil
12 penalties; providing construction with respect
13 to scientific research; providing for
14 enforcement of the act; providing civil
15 remedies; providing limitations on commencement
16 of actions; amending ss. 95.11 and 775.15,
17 F.S.; providing periods of limitations on
18 actions and prosecutions for violations of the
19 act; providing an effective 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 (3) HUMAN CLONING PROHIBITED.--It is unlawful for any
12 person to knowingly:

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

14 (b) Participate or assist in an attempt to perform
15 human cloning.

16 (c) Ship or receive for any purpose an embryo produced
17 by human cloning or any product derived from such embryo;
18 provided, however, this paragraph shall not prohibit the act
19 of entering this state after having received any medical
20 treatment, including impregnation with an embryo produced by
21 human cloning, if such treatment was lawfully received in
22 another jurisdiction.

23 (4) PENALTIES.--

24 (a) Any person who violates any provision of
25 subsection (3) commits a felony of the second degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084, and shall be sentenced to a minimum term of
28 imprisonment of 10 years.

29 (b) Any person who violates any provision of
30 subsection (3) and derives pecuniary gain from such violation
31 shall be subject to a civil penalty of not less than \$1

1 million and not more than an amount equal to the amount of the
2 gross pecuniary gain derived from the violation multiplied by
3 2, if that amount is greater than \$1 million.

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

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

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

27 (b) Any person participating in the production by
28 human cloning of an individual shall be jointly and severally
29 liable to the individual and the individual's legal guardian
30 for support and the costs of guardianship during the
31 individual's minority, as well as for the costs of any

1 guardian ad litem to represent the interests of the individual
2 in the courts of this state in any matter related to the
3 production or legal status of the individual. The liability
4 created by this paragraph shall not cease at the age of
5 majority if the individual suffers thereafter from any
6 congenital defect or other disability related to the
7 production of the individual by human cloning.

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

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

26 (e) The liabilities created by this section shall be
27 strictly enforced without regard to negligence or fault. The
28 status of a person as plaintiff or injured party upon any
29 cause of action or legal theory shall not negate the status of
30 such person as defendant or reduce their liability to other
31 claimants under any cause of action created by this section.

1 The liabilities created by this section may not be waived by
2 any individual, nor compromised except as may be implemented
3 through an enforceable judgment of a court of this state. No
4 affirmative defenses other than lack of jurisdiction, res
5 judicata, satisfaction of the liability, or expiration of the
6 statute of limitations period provided in paragraph (i) shall
7 be allowed in any action brought pursuant to this section.

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

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

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

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

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

5 95.11 Limitations other than for the recovery of real
6 property.--Actions other than for recovery of real property
7 shall be commenced as follows:

8 (9) FOR ACTIONS RELATED TO HUMAN CLONING.--An action
9 founded upon a violation of s. 877.27(3) must be commenced as
10 provided in s. 877.27(6).

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

13 775.15 Time limitations.--

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

17 (i) A prosecution for a felony violation of s.
18 877.27(3) must be commenced within 4 years after the violation
19 is reported to law enforcement, or within 21 years after the
20 birth or destruction of an individual produced by human
21 cloning, whichever occurs first.

22 Section 4. This act shall take effect upon becoming a
23 law.