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A bill to be entitled
 An act relating to human cloning; creating s. 877.27,
 F.S., the "Human Cloning Prohibition and Responsibility
 Act of 2003"; providing definitions; providing that it is
 unlawful to perform or attempt to perform human cloning,
 to participate or assist in an attempt to perform human
 cloning, or to ship or receive in commerce for any purpose
 an embryo produced by human cloning or any product derived
 from such embryo; providing a penalty; providing civil
 penalties; providing construction with respect to
 scientific research; providing for enforcement of the act;
 providing civil remedies; providing limitations on
 commencement of actions; amending ss. 95.11 and 775.15,
 F.S.; providing periods of limitations on actions and
 prosecutions for violations of the act; providing an
 effective date.

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

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

877.27 Human Cloning Prohibition and Responsibility Act.--

(1) POPULAR NAME.--This section may be referred to by the
 popular name "Human Cloning Prohibition and Responsibility Act
 of 2003."

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

(a) "Human cloning" means human asexual reproduction,
 accomplished by introducing nuclear 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



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31 produce a living organism, at any state of development, that is
 32 genetically virtually identical to an existing or previously
 33 existing human organism.

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

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

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

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

42 (b) Participate or assist in an attempt to perform human
 43 cloning.

44 (c) Ship or receive for any purpose an embryo produced by
 45 human cloning or any product derived from such embryo; however,
 46 this paragraph shall not prohibit the act of entering this state
 47 after having received any medical treatment, including
 48 impregnation with an embryo produced by human cloning, if such
 49 treatment was lawfully received in another jurisdiction.

50 (4) PENALTIES.--

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

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



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

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

72 (a) Any person participating in the production by human
73 cloning of such individual shall be jointly and severally liable
74 to the individual, the individual's spouse, dependents, and
75 blood relatives, and to any woman impregnated with the
76 individual, her spouse, and dependents, for damages for all
77 physical, emotional, economic, or other injuries suffered by
78 such persons at any time as a result of the use of human cloning
79 to produce the individual. This section shall not give rise to a
80 cause of action for wrongful life but shall not exclude any
81 injuries or damages associated with the continuation of life by
82 the individual who is a product of human cloning.

83 (b) Any person participating in the production by human
84 cloning of an individual shall be jointly and severally liable
85 to the individual and the individual's legal guardian for
86 support and the costs of guardianship during the individual's
87 minority, as well as for the costs of any guardian ad litem to
88 represent the interests of the individual in the courts of this
89 state in any matter related to the production or legal status of
90 the individual. The liability created by this paragraph shall



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91 not cease at the age of majority if the individual suffers
92 thereafter from any congenital defect or other disability
93 related to the production of the individual by human cloning.

94 (c) All liabilities created under this section shall
95 survive the death of an individual produced by human cloning.
96 All persons and entities participating in the production by
97 human cloning of an individual shall be jointly and severally
98 liable to the estate of the individual for damages for injuries
99 resulting from the death of the individual if the cause of death
100 is related to the production of the individual by human cloning
101 or any congenital defect in the individual. If the individual
102 dies intestate leaving no descendants or other dependents, the
103 cause of action created by this paragraph shall accrue to the
104 State of Florida. In every such action for the death of the
105 individual, exemplary damages in an amount of at least \$100,000
106 shall be awarded.

107 (d) The rights of recovery created by this section shall
108 be cumulative to all other legal rights. No liability created by
109 this section shall be reduced by the payment of any other
110 liability or by the recovery of damages from any other source or
111 under any other legal theory.

112 (e) The liabilities created by this section shall be
113 strictly enforced without regard to negligence or fault. The
114 status of a person as plaintiff or injured party upon any cause
115 of action or legal theory shall not negate the status of such
116 person as defendant or reduce such person's liability to other
117 claimants under any cause of action created by this section. The
118 liabilities created by this section may not be waived by any
119 individual or compromised except as may be implemented through
120 an enforceable judgment of a court of this state. No affirmative



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121 defenses other than lack of jurisdiction, res judicata,
122 satisfaction of the liability, or expiration of the statute of
123 limitations period provided in paragraph (i) shall be allowed in
124 any action brought pursuant to this section.

125 (f) The domicile in the State of Florida of any injured
126 person having a cause of action under this section, or the
127 incurring within this state of any damages recoverable under
128 this section, shall be sufficient to establish the jurisdiction
129 of the law of this state and its courts for all related claims
130 arising under this section.

131 (g) Any state agency providing services to any person
132 entitled to recovery under this section, and any private
133 insurance company legally obligated to pay medical costs or
134 other compensation related to conditions associated with
135 injuries for which recovery is authorized under this act, shall
136 be subrogated to the rights to recover under this section of any
137 person receiving such services or benefiting from such
138 insurance. Such subrogation shall not exceed the full cost of
139 such services or insurance payments.

140 (h) The Attorney General is empowered to bring civil
141 actions in this or any appropriate jurisdiction to enforce the
142 rights and obligations created under this section on behalf of
143 the state or any resident of the state.

144 (i) An action under this section must be commenced before
145 the expiration of 5 years after the death of the individual
146 produced by human cloning, provided that an action for support
147 and other damages under paragraph (b) must be commenced within 5
148 years after the end of the period for which liability is imposed
149 under paragraph (b).



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

152 95.11 Limitations other than for the recovery of real
 153 property.--Actions other than for recovery of real property
 154 shall be commenced as follows:

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

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

160 775.15 Time limitations.--

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

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

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