

BILL ANALYSIS

Senate Research Center
77R12306 JAT-F

C.S.S.B. 102
By: Nelson
Jurisprudence
4/10/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

In recent years, scientists have discovered ways to clone organisms and animals. Due to these developments in science, the possibility of cloning human beings has become a reality. Currently it is illegal for federal funds to be used to clone human beings, and a voluntary moratorium on human cloning is being observed by industry and researchers, yet there are no provisions in Texas statutes that address cloning. C.S.S.B. 102 prohibits the cloning of a human being and provides that doing so constitutes a felony of the first degree.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 161, Health and Safety Code, by adding Subchapter Q, as follows:

SUBCHAPTER Q. HUMAN CLONING

Sec. 161.401. DEFINITIONS. Defines “human cloning,” “human embryo,” “human somatic cell,” and “human somatic cell nuclear transfer.”

Sec. 161.402. HUMAN CLONING PROHIBITED. (a) Prohibits a person from engaging in or attempting to engage in human cloning.

(b) Provides that this subchapter does not restrict scientific research or therapies using cloning technologies not expressly prohibited by this subchapter.

Sec. 161.403. LICENSED VIOLATORS. Provides that a person licensed by a state agency as a health care practitioner or health care facility who violates Section 161.402 is subject to the same consequence, other than a civil penalty, that the person would be subject to if the person had violated the licensing law applicable to the person or rules adopted under that law.

Sec. 161.404. CIVIL PENALTY. (a) Provides that a person who violates Section 161.402 is liable for a civil penalty of not more than \$10 million for each violation.

(b) Requires the amount of the penalty to be based on:

- the seriousness of the violation;
- the history of previous violations;
- the amount necessary to deter a future violation; and
- any other matter that justice may require.

(c) Authorizes the commissioner of public health (commissioner) or the attorney general to each recover reasonable expenses incurred in obtaining a civil penalty under this section, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses. Requires the expenses recovered by the commissioner under this section to be used for the administration and enforcement of this subchapter. Requires the expenses recovered by the attorney general to be used by the attorney general.

Sec. 161.405. CRIMINAL OFFENSE. Provides that a person commits an offense if the person intentionally engages in human cloning. Makes an offense under this section a felony of the first degree.

SECTION 2. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Differs from the original as follows:

- Modifies the caption.
- Adds the definitions proposed in the substitute and removes the definition of "clone" proposed in the original.
- Modifies the verb "to clone a human" to "to engage in human cloning."
- Makes the civil penalty for each violation of the prohibition \$10 million, rather than \$10,000.
- Provides criminal penalties.
- Removes the expiration date and the prospective clauses.