
ENGROSSED HOUSE BILL 1268

State of Washington

59th Legislature

2005 Regular Session

By Representatives Schual-Berke, Jarrett, Tom, Sommers, Dickerson, Cody, Hankins, Murray, Hudgins, B. Sullivan, Fromhold, Haler, Appleton, Wallace, Kagi, Dunshee, Springer, Upthegrove, Kenney, Quall, Pettigrew, Morris, Darneille, Moeller, Morrell, Hunt, Lovick, Kessler, Williams, Roberts, Chase, Santos and McIntire

Read first time 01/19/2005. Referred to Committee on Health Care.

1 AN ACT Relating to stem cell research; adding a new chapter to
2 Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

5 (1) An estimated one hundred twenty-eight million Americans suffer
6 from chronic, degenerative, and acute diseases, including diabetes,
7 Alzheimer's disease, cancer, Huntington's disease, Parkinson's disease,
8 heart disease, and spinal cord injury. The crippling economic and
9 psychological burdens of such diseases result in billions of dollars
10 every year in costs of treatment and lost productivity as well as
11 extreme human loss and emotional suffering.

12 (2) Stem cell research offers immense promise for developing new
13 medical therapies for these debilitating diseases and a critical means
14 to explore fundamental questions of biology. Stem cell research could
15 lead to unprecedented treatments and potential cures for diabetes,
16 Alzheimer's disease, Huntington's disease, Parkinson's disease, heart
17 disease, spinal cord injury, and other diseases.

18 (3) Washington state is home to several large medical research
19 institutions and an expanding biomedical research industry. These

1 organizations are committed to improving the lives of Americans
2 suffering from chronic, degenerative, and acute diseases. Encouraging
3 stem cell research is essential to realizing the promise of stem cell
4 research and will promote advances in other areas of biomedical
5 research.

6 (4) Stem cell therapy was born in Washington state over thirty
7 years ago, with the pioneering work of nobel laureate, E. Donnall
8 Thomas, and his colleagues at the Fred Hutchinson cancer research
9 center. The Fred Hutchinson cancer research center remains the premier
10 center for adult stem cell transplantation in the world. Support for
11 stem cell research at this critical juncture represents a commitment to
12 continue this distinguished legacy.

13 (5) Several states have supported policies and institutions in
14 partnership with the biomedical research industry to promote and
15 advance embryonic stem cell research. Washington state must
16 demonstrate a similar commitment to these initiatives in order to
17 reaffirm itself as a leader in this area of biomedical research.

18 (6) Stem cell research, including the use of embryonic stem cells
19 for medical research, raises significant ethical concerns that must be
20 balanced with medical considerations.

21 (7) While therapeutic cloning stem cell research holds enormous
22 potential for treating or even curing some diseases, the reproductive
23 cloning of human beings is morally and ethically unacceptable.
24 Furthermore, the reproductive cloning of human beings poses grave
25 health risks to any child who may be produced in this manner. Any
26 attempt to clone a human being is in direct conflict with the policies
27 of this state.

28 NEW SECTION. **Sec. 2.** The definitions in this section apply
29 throughout this chapter unless the context clearly requires otherwise.

30 (1) "Blastocyst" means a preimplantation embryo consisting of
31 approximately one hundred fifty cells that are organized into an inner
32 and outer cell layer surrounding a fluid-filled cavity. The cells of
33 the inner layer, from which embryonic stem cells are derived, consists
34 of undifferentiated cells that have the potential to become any type of
35 cell in the human body.

36 (2) "Department" means the department of health.

1 (3) "Human somatic cell" means a diploid cell obtained or derived
2 from a living or deceased human at any stage of development.

3 (4) "Oocyte" means the unfertilized human ovum.

4 (5) "Reproductive cloning of a human being" means asexual
5 reproduction of a human being by transplanting a blastocyst that has
6 been created by somatic cell nuclear transfer into a uterus or
7 substitute for a uterus with the purpose of creating a human being.

8 (6) "Secretary" means the secretary of health.

9 (7) "Somatic cell nuclear transfer" or "therapeutic cloning" means
10 a technique in which the nucleus of an oocyte is replaced with the
11 nucleus of a donated human somatic cell and stimulated to divide until
12 it reaches the blastocyst stage.

13 NEW SECTION. **Sec. 3.** (1) The human stem cell research advisory
14 committee is created and consists of thirteen members appointed by the
15 governor. Members of the initial committee shall be appointed to
16 staggered terms of one to two years, and thereafter all terms of
17 appointment shall be for four years. The governor shall consider such
18 candidates as may be recommended for appointment by the University of
19 Washington and the biomedical research community. The committee shall
20 consist of the following members:

21 (a) Seven scientists with experience in biomedical research in the
22 fields of cell differentiation, nuclear reprogramming, tissue formation
23 and regeneration, stem cell biology, developmental biology,
24 regenerative medicine, or related fields;

25 (b) Two medical ethicists;

26 (c) Two persons with backgrounds in legal issues related to human
27 embryonic stem cell research, in vitro fertilization, or family law, as
28 it applies to the donation of blastocysts and oocytes; and

29 (d) Two members of the public.

30 (2) The advisory committee shall develop guidelines for research
31 involving the derivation or use of human embryonic stem cells in
32 Washington by January 1, 2006. The guidelines shall address the
33 balance between the state policy of promoting research involving the
34 derivation of human embryonic stem cells, by any method, including
35 somatic cell nuclear transfer, and the ethical considerations that
36 arise with such research. After adoption of the initial guidelines,
37 the advisory committee may revise the guidelines or issue advisory

1 opinions, as necessary, to account for developments in research and
2 medicine as they may affect the research and ethical considerations
3 associated with the use of human embryonic stem cells.

4 (3) To develop the guidelines, the committee may consider other
5 applicable guidelines developed or used in the United States and in
6 other countries, including the guidelines for research using human
7 pluripotent stem cells developed by the national institutes of health
8 published in August 2000, and corrected in November 2000.

9 (4) The department shall provide administrative support to the
10 advisory committee.

11 NEW SECTION. **Sec. 4.** (1) A health care provider delivering
12 fertility treatment must provide his or her patient with timely,
13 relevant, and appropriate information to allow the patient to make an
14 informed and voluntary choice about the disposition of any human
15 blastocysts remaining following the fertility treatment.

16 (2) Any person to whom information is provided pursuant to
17 subsection (1) of this section must be presented with the option of
18 storing any unused blastocysts, donating unused blastocysts to another
19 individual, discarding unused blastocysts, or donating unused
20 blastocysts for research. When providing fertility treatment, the
21 health care provider must provide a form to the male and female
22 partner, or the person without a partner, as applicable, that sets
23 forth advanced written directives regarding the disposition of unused
24 blastocysts. The form must indicate the time limit on storage of the
25 blastocysts at the clinic or storage facility and provide, at a
26 minimum, the following choices for disposition of the blastocysts based
27 on the following circumstances:

28 (a) Upon written notice of the death of a patient or patient's
29 partner, the blastocysts must be disposed of by one of the following
30 actions:

- 31 (i) Making the blastocysts available to the living partner, if any;
32 (ii) Donating the blastocysts for research purposes;
33 (iii) Thawing the blastocysts without any further action;
34 (iv) Donating the blastocysts to another person; or
35 (v) Disposing of the blastocysts in any other clearly stated
36 method.

1 (b) Upon written notice of the separation or divorce of the
2 partners, the blastocysts must be disposed of by any of the following
3 actions:

- 4 (i) Making the blastocysts available to the female partner;
- 5 (ii) Making the blastocysts available to the male partner;
- 6 (iii) Donating the blastocysts for research purposes;
- 7 (iv) Thawing the blastocysts without any further action;
- 8 (v) Donating the blastocysts to another person; or
- 9 (vi) Disposing of the blastocysts in any other clearly stated
10 method.

11 (c) Upon the partners' decision, or the decision of a patient who
12 is without a partner, to abandon the blastocysts by written request or
13 a failure to pay storage fees, the blastocysts must be disposed of by
14 one of the following actions:

- 15 (i) Donating the blastocysts for research purposes;
- 16 (ii) Thawing the blastocysts without any further action;
- 17 (iii) Donating the blastocysts to another person; or
- 18 (iv) Disposing of the blastocysts in any other clearly stated
19 method.

20 (3) A health care provider delivering fertility treatment must
21 obtain written consent from any person who elects to donate blastocysts
22 remaining after fertility treatment for research. To obtain informed
23 consent, the health care provider must provide the following
24 information to the person:

25 (a) That the early human blastocysts will be used to derive human
26 pluripotent stem cells for research and that the cells may be used, at
27 some future time, for human transplantation research;

28 (b) Information that would permit the donor to be individually
29 identified will be removed before deriving human embryonic stem cell
30 lines;

31 (c) That donors will not receive any information about subsequent
32 testing on the blastocysts or the derived human pluripotent cells;

33 (d) That derived cells or cell lines may be kept for many years;

34 (e) That the donor material may have commercial potential, and the
35 donor will not receive financial or any other benefits from any future
36 commercial development;

37 (f) That the human pluripotent stem cell research is not intended
38 to provide direct medical benefit to the donor; and

1 (g) That human blastocysts donated for research will not be
2 transferred to a woman's uterus and will be destroyed during the stem
3 cell derivation process. Research will be conducted in accordance with
4 the advisory committee established in section 3 of this act.

5 NEW SECTION. **Sec. 5.** (1) No person may knowingly engage or assist
6 in reproductive cloning of a human being or attempting reproductive
7 cloning of a human being.

8 (2) The attorney general may bring an action to enjoin any person
9 from violating subsection (1) of this section.

10 (3) Any person who violates subsection (1) of this section is
11 subject to a civil penalty not to exceed one hundred thousand dollars
12 for each violation. Civil penalties authorized by this subsection may
13 be imposed in any civil action brought by the attorney general.

14 (4) Nothing in this section shall be construed to restrict areas of
15 biomedical, agricultural, and scientific research not specifically
16 prohibited by this section, including somatic cell nuclear transfer or
17 other cloning technologies to clone molecules, DNA, cells, and tissues.

18 NEW SECTION. **Sec. 6.** (1) A person may donate human embryonic
19 tissue or human cadaveric fetal tissue for research purposes.

20 (2) A person may not knowingly, for valuable consideration,
21 purchase or sell human embryonic tissue or human cadaveric fetal tissue
22 for research purposes.

23 (3) Valuable consideration does not include reasonable payment for
24 the removal, processing, disposal, preservation, quality control,
25 storage, transportation, or implantation of human embryonic tissue or
26 human cadaveric tissue.

27 (4) A person who violates this section is guilty of a class B
28 felony and upon conviction is subject to a fine not to exceed twenty
29 thousand dollars or imprisonment not to exceed ten years.

30 NEW SECTION. **Sec. 7.** No person may use human eggs or human sperm
31 that have been donated for purposes of assisted reproduction as defined
32 in chapter 26.26 RCW, to create human embryonic stem cells for use in
33 research, without the written consent of the donor to use the eggs or
34 sperm for research purposes after receiving the information specified
35 in section 4(3) of this act.

1 NEW SECTION. **Sec. 8.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
6 a new chapter in Title 70 RCW.

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