

Calendar No. 305105TH CONGRESS
2^D SESSION**S. 1611**

To amend the Public Health Service Act to prohibit any attempt to clone a human being using somatic cell nuclear transfer and to prohibit the use of Federal funds for such purposes, to provide for further review of the ethical and scientific issues associated with the use of somatic cell nuclear transfer in human beings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1998

Mrs. FEINSTEIN (for herself and Mr. KENNEDY) introduced the following bill;
which was read the first time

FEBRUARY 5, 1998

Read the second time and placed on the calendar

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Prohibition on Cloning
3 of Human Beings Act of 1998”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) it has been reported that an adult sheep has
7 been cloned using a technique called somatic cell nu-
8 clear transfer;

9 (2) the National Bioethics Advisory Commission
10 (referred to in this Act as the “NBAC”) has re-
11 viewed the scientific and ethical implications of the
12 potential use of such technology to clone human
13 beings;

14 (3) the NBAC has determined that—

15 (A) somatic cell nuclear transfer tech-
16 nology may have many applications for bio-
17 technology, livestock productions, and new med-
18 ical approaches including the production of
19 pharmaceutical proteins and prospects for re-
20 pair, regeneration, or transplant of human tis-
21 sues or organs; and

22 (B) the possibility of using somatic cell nu-
23 clear transfer for the purposes of creating a
24 child entails significant scientific uncertainty
25 and medical risk, which could result in harm to
26 a child;

1 (4) the NBAC concluded unanimously that at
2 this time it is morally unacceptable for anyone in the
3 public or private sector, whether in a research or
4 clinical setting, to attempt to create a child using so-
5 matic cell nuclear transfer-cloning;

6 (5) the consensus of the NBAC is based on cur-
7 rent scientific information indicating that this tech-
8 nique is not safe to use in humans at this time;

9 (6) in addition to issues of safety, the NBAC
10 identified many additional serious ethical concerns
11 which they agreed require a great deal more wide-
12 spread and careful public deliberation before this
13 technology may be used;

14 (7) the NBAC recommended a continuation of
15 the current moratorium on the use of Federal funds
16 to support any attempt to create a child by somatic
17 cell nuclear transfer, and an immediate request to
18 all firms, clinicians, investigators, and professional
19 societies to comply voluntarily with the intent of the
20 Federal moratorium;

21 (8) the NBAC further recommended that Fed-
22 eral legislation be enacted to prohibit anyone from
23 attempting, whether in a research or clinical setting,
24 to create a child through somatic cell nuclear trans-
25 fer cloning;

1 (9) the NBAC also recommended that the
2 United States cooperate with other countries to en-
3 force mutually supported restrictions on this activity;

4 (10) the NBAC specified that such Federal leg-
5 islation should include a sunset provision and that,
6 prior to the sunset date, an oversight body should
7 review and report on the status of somatic cell nu-
8 clear transfer technology and the ethical and social
9 issues associated with its use and recommend wheth-
10 er the prohibition should be continued;

11 (11) the NBAC concluded that any regulatory
12 or legislative actions undertaken to effect the fore-
13 going prohibition should be carefully written so as
14 not to interfere with other important areas of re-
15 search, such as the cloning of human DNA se-
16 quences and cells, which raise neither the scientific
17 nor the ethical issues that arise from the possible
18 creation of children through somatic cell nuclear
19 transfer techniques;

20 (12) the NBAC also found that cloning animals
21 by somatic cell nuclear transfer does not raise the
22 same issues implicated in attempting to use the
23 technique to create a child, and its continuation
24 should only be subject to existing regulations regard-
25 ing the humane use of animals; and

1 (13)(A) biomedical research facilities, including
2 those conducting cloning, and reproductive services
3 facilities engage in and affect interstate commerce;

4 (B) the products of biomedical research, includ-
5 ing cloning, and the services provided by reproduc-
6 tive services facilities move in interstate commerce;

7 (C) patients travel regularly across State lines
8 in order to access reproductive services facilities; and

9 (D) biomedical research facilities, including
10 those conducting cloning, and reproductive services
11 facilities engage scientists, doctors, and other staff
12 in an interstate market, and contract for research
13 and purchase medical and other supplies in an inter-
14 state market.

15 **SEC. 3. PURPOSES.**

16 It is the purpose of this Act to—

17 (1) prohibit any attempt, in this country or
18 elsewhere, to clone a human being, that is, to use
19 the product of somatic cell nuclear transfer to create
20 a human being genetically identical to an existing or
21 deceased human being;

22 (2) prohibit the use of Federal funds for any of
23 the activities described in paragraph (1); and

1 which the nucleus or all chromosomes have been or
2 will be removed or rendered inert.

3 “(b) PROHIBITIONS.—It shall be unlawful for any
4 person or other legal entity, public or private—

5 “(1) to implant or attempt to implant the prod-
6 uct of somatic cell nuclear transfer into a woman’s
7 uterus;

8 “(2) to ship the product of somatic cell nuclear
9 transfer in interstate or foreign commerce for the
10 purpose of implanting the product of somatic cell
11 nuclear transfer into a woman’s uterus, in the
12 United States or elsewhere; or

13 “(3) to use funds made available under this
14 Act, or any other Act, for an activity prohibited
15 under paragraph (1) or (2).

16 “(c) PROTECTED RESEARCH AND PRACTICES.—
17 Nothing in this section shall be construed to restrict areas
18 of biomedical and agricultural research or practices not
19 expressly prohibited in this section, including research or
20 practices that involve the use of—

21 “(1) somatic cell nuclear transfer or other
22 cloning technologies to clone molecules, DNA, cells,
23 and tissues;

24 “(2) mitochondrial, cytoplasmic or gene ther-
25 apy; or

1 “(3) somatic cell nuclear transfer techniques to
2 create nonhuman animals.

3 “(d) NATIONAL BIOETHICS ADVISORY COMMISSION
4 REPORT.—

5 “(1) IN GENERAL.—Not later than 4½ years,
6 and subsequently, 9½ years, after the date of enact-
7 ment of this section, the National Bioethics Advisory
8 Commission shall prepare and submit to the Presi-
9 dent and Congress a report concerning—

10 “(A) the state of the science of cloning and
11 relevant developments in cell biology;

12 “(B) the ethical and social issues associ-
13 ated with the potential use of this technology in
14 humans; and

15 “(C) the advisability of continuing the pro-
16 hibition established under this section.

17 “(2) OTHER REPORTS.—The National Bioethics
18 Advisory Commission may produce reports in addi-
19 tion to the reports required under paragraph (1) if
20 the Commission determines that such reports are
21 useful to clarify any of the topics described in para-
22 graph (1), address changes in the state of science or
23 society, or modify or clarify the recommendations of
24 the Commission.

1 “(3) CONTINUATION OF COMMISSION.—The
2 National Bioethics Advisory Commission is author-
3 ized to continue for the 10-year period described in
4 subsection (i) to prepare reports under this section
5 and for other purposes as established in Executive
6 Order 12975 and subsequent amendments to such
7 Order. This paragraph shall be construed to super-
8 sede the termination and chartering provisions of
9 section 14 of the Federal Advisory Committee Act
10 (5 U.S.C. App 2).

11 “(e) PENALTIES.—

12 “(1) IN GENERAL.—Any person who inten-
13 tionally violates the provisions of subsection (b) shall
14 be fined the greater of \$1,000,000 or 3 times the
15 gross pecuniary gain or loss resulting from the viola-
16 tion.

17 “(2) CIVIL ACTIONS.—If a person is violating
18 or about to violate the provisions of subsection (b),
19 the Attorney General may commence a civil action in
20 an appropriate Federal district court to enjoin such
21 violation.

22 “(3) FORFEITURE.—Any property, real or per-
23 sonal, derived from or used to commit a violation or
24 attempted violation of the provisions of subsection
25 (b), or any property traceable to such property, shall

1 be subject to forfeiture to the United States in ac-
2 cordance with the procedures set forth in chapter 46
3 of title 18, United States Code.

4 “(4) AUTHORITY.—The Attorney General shall
5 have exclusive, nondelegable enforcement authority
6 under this section.

7 “(5) ADVISORY OPINIONS.—The Attorney Gen-
8 eral shall, upon request, render binding advisory
9 opinions regarding the scope, applicability, interpre-
10 tation, and enforcement of this section with regard
11 to specific research projects or practices.

12 “(f) COOPERATION WITH FOREIGN COUNTRIES.—It
13 is the sense of Congress that the President should cooper-
14 ate with foreign countries to enforce mutually supported
15 restrictions on the activities prohibited under subsection
16 (b).

17 “(g) RIGHT OF ACTION.—Nothing in this section
18 shall be construed to give any individual or person a pri-
19 vate right of action.

20 “(h) PREEMPTION OF STATE LAW.—The provisions
21 of this section shall preempt any State or local law that
22 prohibits or restricts research regarding, or practices con-
23 stituting, somatic cell nuclear transfer, mitochondrial or
24 cytoplasmic therapy, or the cloning of molecules, DNA,
25 cells, tissues, organs, plants, animals, or humans.

1 “(i) EFFECTIVE DATE.—This section shall be effec-
2 tive for the 10-year period beginning on the date of enact-
3 ment of this section. The prohibitions contained in this
4 section shall terminate at the expiration of such 10-year
5 period.”.

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