

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 876

To prohibit human cloning and protect stem cell research.

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IN THE SENATE OF THE UNITED STATES

APRIL 21, 2005

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. SPECTER, Mr. KENNEDY, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To prohibit human cloning and protect stem cell research.

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

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Human Cloning Ban  
5 and Stem Cell Research Protection Act of 2005”.

6 **SEC. 2. PURPOSES.**

7       It is the purpose of this Act to prohibit human  
8 cloning and to protect important areas of medical re-  
9 search, including stem cell research.

1           **TITLE I—PROHIBITION ON**  
 2                           **HUMAN CLONING**

3   **SEC. 101. PROHIBITION ON HUMAN CLONING.**

4           (a) IN GENERAL.—Title 18, United States Code, is  
 5 amended by inserting after chapter 15, the following:

6   **“CHAPTER 16—PROHIBITION ON HUMAN**  
 7                           **CLONING**

“Sec.

“301. Prohibition on human cloning.

8   **“§ 301. Prohibition on human cloning**

9           “(a) DEFINITIONS.—In this section:

10                   “(1) HUMAN CLONING.—The term ‘human  
 11 cloning’ means implanting or attempting to implant  
 12 the product of nuclear transplantation into a uterus  
 13 or the functional equivalent of a uterus.

14                   “(2) HUMAN SOMATIC CELL.—The term  
 15 ‘human somatic cell’ means any human cell other  
 16 than a haploid germ cell.

17                   “(3) NUCLEAR TRANSPLANTATION.—The term  
 18 ‘nuclear transplantation’ means transferring the nu-  
 19 cleus of a human somatic cell into an oocyte from  
 20 which the nucleus or all chromosomes have been or  
 21 will be removed or rendered inert.

22                   “(4) NUCLEUS.—The term ‘nucleus’ means the  
 23 cell structure that houses the chromosomes.

1           “(5) OOCYTE.—The term ‘oocyte’ means the fe-  
2           male germ cell, the egg.

3           “(6) UNFERTILIZED BLASTOCYST.—The term  
4           ‘unfertilized blastocyst’ means an intact cellular  
5           structure that is the product of nuclear transplan-  
6           tation. Such term shall not include stem cells, other  
7           cells, cellular structures, or biological products de-  
8           rived from an intact cellular structure that is the  
9           product of nuclear transplantation.

10          “(b) PROHIBITIONS ON HUMAN CLONING.—It shall  
11          be unlawful for any person or other legal entity, public  
12          or private—

13                 “(1) to conduct or attempt to conduct human  
14                 cloning;

15                 “(2) to ship the product of nuclear transplan-  
16                 tation in interstate or foreign commerce for the pur-  
17                 pose of human cloning in the United States or else-  
18                 where; or

19                 “(3) to export to a foreign country an  
20                 unfertilized blastocyst if such country does not pro-  
21                 hibit human cloning.

22          “(c) PROTECTION OF RESEARCH.—Nothing in this  
23          section shall be construed to restrict practices not ex-  
24          pressly prohibited in this section.

25          “(d) PENALTIES.—

1           “(1) CRIMINAL PENALTIES.—Whoever inten-  
2           tionally violates paragraph (1), (2), or (3) of sub-  
3           section (b) shall be fined under this title and impris-  
4           oned not more than 10 years.

5           “(2) CIVIL PENALTIES.—Whoever intentionally  
6           violates paragraph (1), (2), or (3) of subsection (b)  
7           shall be subject to a civil penalty of \$1,000,000 or  
8           three times the gross pecuniary gain resulting from  
9           the violation, whichever is greater.

10           “(3) FORFEITURE.—Any property, real or per-  
11           sonal, derived from or used to commit a violation or  
12           attempted violation of the provisions of subsection  
13           (b), or any property traceable to such property, shall  
14           be subject to forfeiture to the United States in ac-  
15           cordance with the procedures set forth in chapter 46  
16           of title 18, United States Code.

17           “(e) 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   **SEC. 102. OVERSIGHT REPORTS ON ACTIONS TO ENFORCE**  
21                           **CERTAIN PROHIBITIONS.**

22           (a) REPORT ON ACTIONS BY ATTORNEY GENERAL TO  
23   ENFORCE CHAPTER 16 OF TITLE 18.—Not later than 1  
24   year after the date of enactment of this Act, the Comp-  
25   troller General shall prepare and submit to the Committee

1 on the Judiciary of the Senate and the Committee on the  
2 Judiciary of the House of Representatives a report that—

3 (1) describes the actions taken by the Attorney  
4 General to enforce the provisions of chapter 16 of  
5 title 18, United States Code (as added by section  
6 101);

7 (2) describes the personnel and resources the  
8 Attorney General has utilized to enforce the provi-  
9 sions of such chapter; and

10 (3) contain a list of any violations, if any, of  
11 the provisions of such chapter 16.

12 (b) REPORT ON ACTIONS OF STATE ATTORNEYS  
13 GENERAL TO ENFORCE SIMILAR STATE LAWS.—

14 (1) DEFINITION.—In this subsection and sub-  
15 section (c), the term “similar State law relating to  
16 human cloning” means a State or local law that pro-  
17 vides for the imposition of criminal penalties on indi-  
18 viduals who are determined to be conducting or at-  
19 tempting to conduct human cloning (as defined in  
20 section 301 of title 18, United States Code (as  
21 added by section 101)).

22 (2) REPORT.—Not later than 1 year after the  
23 date of enactment of this Act, the Comptroller Gen-  
24 eral shall prepare and submit to the Committee on  
25 the Judiciary of the Senate and the Committee on

1 the Judiciary of the House of Representatives a re-  
2 port that—

3 (A) describes any similar State law relat-  
4 ing to human cloning;

5 (B) describes the actions taken by the  
6 State attorneys general to enforce the provi-  
7 sions of any similar State law relating to  
8 human cloning;

9 (C) contains a list of violations, if any, of  
10 the provisions of any similar State law relating  
11 to human cloning; and

12 (D) contains a list of any individual who,  
13 or organization that, has violated, or has been  
14 charged with violating, any similar State law re-  
15 lating to human cloning.

16 (c) REPORT ON COORDINATION OF ENFORCEMENT  
17 ACTIONS AMONG THE FEDERAL AND STATE AND LOCAL  
18 GOVERNMENTS WITH RESPECT TO HUMAN CLONING.—

19 Not later than 1 year after the date of enactment of this  
20 Act, the Comptroller General shall prepare and submit to  
21 the Committee on the Judiciary of the Senate and the  
22 Committee on the Judiciary of the House of Representa-  
23 tives a report that—

24 (1) describes how the Attorney General coordi-  
25 nates the enforcement of violations of chapter 16 of

1 title 18, United States Code (as added by section  
2 101), with enforcement actions taken by State or  
3 local government law enforcement officials with re-  
4 spect to similar State laws relating to human  
5 cloning; and

6 (2) describes the status and disposition of—

7 (A) Federal appellate litigation with re-  
8 spect to such chapter 16 and State appellate  
9 litigation with respect to similar State laws re-  
10 lating to human cloning; and

11 (B) civil litigation, including actions to ap-  
12 point guardians, related to human cloning.

13 (d) REPORT ON INTERNATIONAL LAWS RELATING TO  
14 HUMAN CLONING.—Not later than 1 year after the date  
15 of enactment of this Act, the Comptroller General shall  
16 prepare and submit to the Committee on the Judiciary of  
17 the Senate and the Committee on the Judiciary of the  
18 House of Representatives a report that—

19 (1) describes the laws adopted by foreign coun-  
20 tries related to human cloning;

21 (2) describes the actions taken by the chief law  
22 enforcement officer in each foreign country that has  
23 enacted a law described in paragraph (1) to enforce  
24 such law; and

1           (3) describes the multilateral efforts of the  
2           United Nations and elsewhere to ban human cloning.

3   **TITLE II—ETHICAL REQUIRE-**  
4   **MENTS FOR NUCLEAR TRANS-**  
5   **PLANTATION RESEARCH**

6   **SEC. 201. ETHICAL REQUIREMENTS FOR NUCLEAR TRANS-**  
7                           **PLANTATION RESEARCH.**

8           Title IV of the Public Health Service Act (42 U.S.C.  
9   281 et seq.) is amended by adding at the end the fol-  
10   lowing:

11           **“PART J—ETHICAL REQUIREMENTS FOR**  
12           **NUCLEAR TRANSPLANTATION RESEARCH**

13   **“SEC. 499A. ETHICAL REQUIREMENTS FOR NUCLEAR**  
14                           **TRANSPLANTATION RESEARCH, INCLUDING**  
15                           **INFORMED CONSENT, INSTITUTIONAL RE-**  
16                           **VIEW BOARD REVIEW, AND PROTECTION FOR**  
17                           **SAFETY AND PRIVACY.**

18           “(a) DEFINITIONS.—

19                   “(1) IN GENERAL.—The definitions contained  
20           in section 301(a) of title 18, United States Code,  
21           shall apply for purposes of this section.

22                   “(2) OTHER DEFINITIONS.—In this section:

23                           “(A) DONATING.—The term ‘donating’  
24           means giving without receiving valuable consid-  
25           eration.



1           “(B) FERTILIZATION.—The term ‘fertiliza-  
2           tion’ means the fusion of an oocyte containing  
3           a haploid nucleus with a male gamete (sperm  
4           cell).

5           “(C) VALUABLE CONSIDERATION.—The  
6           term ‘valuable consideration’ does not include  
7           reasonable payments—

8                   “(i) associated with the transpor-  
9                   tation, processing, preservation, or storage  
10                  of a human oocyte or of the product of nu-  
11                  clear transplantation research; or

12                   “(ii) to compensate a donor of one or  
13                   more human oocytes for the time or incon-  
14                   venience associated with such donation.

15           “(b) APPLICABILITY OF FEDERAL ETHICAL STAND-  
16           ARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Re-  
17           search involving nuclear transplantation shall be con-  
18           ducted in accordance with subpart A of part 46 of title  
19           45, or parts 50 and 56 of title 21, Code of Federal Regula-  
20           tions (as in effect on the date of enactment of the Human  
21           Cloning Ban and Stem Cell Research Protection Act of  
22           2003), as applicable.

23           “(c) PROHIBITION ON CONDUCTING NUCLEAR  
24           TRANSPLANTATION ON FERTILIZED EGGS.—A somatic

1 cell nucleus shall not be transplanted into a human oocyte  
2 that has undergone or will undergo fertilization.

3 “(d) FOURTEEN-DAY RULE.—An unfertilized blasto-  
4 cyst shall not be maintained after more than 14 days from  
5 its first cell division, not counting any time during which  
6 it is stored at temperatures less than zero degrees centi-  
7 grade.

8 “(e) VOLUNTARY DONATION OF OOCYTES.—

9 “(1) INFORMED CONSENT.—In accordance with  
10 subsection (b), an oocyte may not be used in nuclear  
11 transplantation research unless such oocyte shall  
12 have been donated voluntarily by and with the in-  
13 formed consent of the woman donating the oocyte.

14 “(2) PROHIBITION ON PURCHASE OR SALE.—  
15 No human oocyte or unfertilized blastocyst may be  
16 acquired, received, or otherwise transferred for valu-  
17 able consideration if the transfer affects interstate  
18 commerce.

19 “(f) SEPARATION OF IN VITRO FERTILIZATION LAB-  
20 ORATORIES FROM LOCATIONS AT WHICH NUCLEAR  
21 TRANSPLANTATION IS CONDUCTED.—Nuclear transplan-  
22 tation may not be conducted in a laboratory in which  
23 human oocytes are subject to assisted reproductive tech-  
24 nology treatments or procedures.

1       “(g) CIVIL PENALTIES.—Whoever intentionally vio-  
2 lates any provision of subsections (b) through (f) shall be  
3 subject to a civil penalty in an amount that is appropriate  
4 for the violation involved, but not more than \$250,000.”.

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