

FIRST REGULAR SESSION

SENATE JOINT RESOLUTION NO. 10

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BARTLE AND ENGLER.

Read 1st time January 3, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0637S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 38(d) of article III of the Constitution of Missouri, and adopting one new section in lieu thereof relating to human cloning.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2008, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article III of the Constitution of the state of Missouri:

Section A. Section 38(d), article III, Constitution of Missouri, is repealed
2 and one new section adopted in lieu thereof, to be known as section 38(d), to read
3 as follows:

Section 38(d). 1. [This section shall be known as the "Missouri Stem Cell
2 Research and Cures Initiative."

3 2. To ensure that Missouri patients have access to stem cell therapies and
4 cures, that Missouri researchers can conduct stem cell research in the state, and
5 that all such research is conducted safely and ethically, any stem cell research
6 permitted under federal law may be conducted in Missouri, and any stem cell
7 therapies and cures permitted under federal law may be provided to patients in
8 Missouri, subject to the requirements of federal law and only the following
9 additional limitations and requirements:

10 (1) No person may clone or attempt to clone a human being.

11 (2) No human blastocyst may be produced by fertilization solely for the
12 purpose of stem cell research.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 (3) No stem cells may be taken from a human blastocyst more than
14 fourteen days after cell division begins; provided, however, that time during
15 which a blastocyst is frozen does not count against the fourteen- day limit.

16 (4) No person may, for valuable consideration, purchase or sell human
17 blastocysts or eggs for stem cell research or stem cell therapies and cures.

18 (5) Human blastocysts and eggs obtained for stem cell research or stem
19 cell therapies and cures must have been donated with voluntary and informed
20 consent, documented in writing.

21 (6) Human embryonic stem cell research may be conducted only by
22 persons that, within 180 days of the effective date of this section or otherwise
23 prior to commencement of such research, whichever is later, have

24 (a) provided oversight responsibility and approval authority for such
25 research to an embryonic stem cell research oversight committee whose
26 membership includes representatives of the public and medical and scientific
27 experts;

28 (b) adopted ethical standards for such research that comply with the
29 requirements of this section; and

30 (c) obtained a determination from an Institutional Review Board that the
31 research complies with all applicable federal statutes and regulations that the
32 Institutional Review Board is responsible for administering.

33 (7) All stem cell research and all stem cell therapies and cures must be
34 conducted and provided in accordance with state and local laws of general
35 applicability, including but not limited to laws concerning scientific and medical
36 practices and patient safety and privacy, to the extent that any such laws do not
37 (i) prevent, restrict, obstruct, or discourage any stem cell research or stem cell
38 therapies and cures that are permitted by the provisions of this section other
39 than this subdivision (7) to be conducted or provided, or (ii) create disincentives
40 for any person to engage in or otherwise associate with such research or therapies
41 and cures.

42 3. Any person who knowingly and willfully violates in this state
43 subdivision (1) of subsection 2 of this section commits a crime and shall be
44 punished by imprisonment for a period of up to fifteen years or by the imposition
45 of a fine of up to two hundred fifty thousand dollars, or by both. Any person who
46 knowingly and willfully violates in this state subdivisions (2) or (3) of subsection
47 2 of this section commits a crime and shall be punished by imprisonment for a
48 period of up to ten years or by the imposition of a fine of up to one hundred

49 thousand dollars, or by both. A civil action may be brought against any person
50 who knowingly and willfully violates in this state any of subdivisions (1) through
51 (6) of subsection 2 of this section, and the state in such action shall be entitled
52 to a judgment recovering a civil penalty of up to fifty thousand dollars per
53 violation, requiring disgorgement of any financial profit derived from such
54 violation, and/or enjoining any further such violation. The attorney general shall
55 have the exclusive right to bring a civil action for such violation. Venue for such
56 action shall be the county in which the alleged violation occurred.

57 4. Each institution, hospital, other entity, or other person conducting
58 human embryonic stem cell research in the state shall (i) prepare an annual
59 report stating the nature of the human embryonic stem cells used in, and the
60 purpose of, the research conducted during the prior calendar year, and certifying
61 compliance with subdivision (6) of subsection 2 of this section; and (ii) no later
62 than June 30 of the subsequent year, make such report available to the public
63 and inform the Secretary of State how the public may obtain copies of or
64 otherwise gain access to the report. The report shall not contain private or
65 confidential medical, scientific, or other information. Individuals conducting
66 research at an institution, hospital, or other entity that prepares and makes
67 available a report pursuant to this subsection 4 concerning such research are not
68 required to prepare and make available a separate report concerning that same
69 research. A civil action may be brought against any institution, hospital, other
70 entity, or other person that fails to prepare or make available the report or inform
71 the Secretary of State how the public may obtain copies of or otherwise gain
72 access to the report, and the state in such action shall be entitled as its sole
73 remedy to an affirmative injunction requiring such institution, hospital, other
74 entity, or other person to prepare and make available the report or inform the
75 Secretary of State how the public may obtain or otherwise gain access to the
76 report. The attorney general shall have the exclusive right to bring a civil action
77 for such violation.

78 5. To ensure that no governmental body or official arbitrarily restricts
79 funds designated for purposes other than stem cell research or stem cell therapies
80 and cures as a means of inhibiting lawful stem cell research or stem cell
81 therapies and cures, no state or local governmental body or official shall
82 eliminate, reduce, deny, or withhold any public funds provided or eligible to be
83 provided to a person that (i) lawfully conducts stem cell research or provides stem
84 cell therapies and cures, allows for such research or therapies and cures to be

85 conducted or provided on its premises, or is otherwise associated with such
86 research or therapies and cures, but (ii) receives or is eligible to receive such
87 public funds for purposes other than such stem cell-related activities, on account
88 of, or otherwise for the purpose of creating disincentives for any person to engage
89 in or otherwise associate with, or preventing, restricting, obstructing, or
90 discouraging, such stem cell-related activities.

91 6. As used in this section, the following terms have the following
92 meanings:

93 (1) "Blastocyst" means a small mass of cells that results from cell division,
94 caused either by fertilization or somatic cell nuclear transfer, that has not been
95 implanted in a uterus.

96 (2) "Clone or attempt to clone a human being" means to implant in a
97 uterus or attempt to implant in a uterus anything other than the product of
98 fertilization of an egg of a human female by a sperm of a human male for the
99 purpose of initiating a pregnancy that could result in the creation of a human
100 fetus, or the birth of a human being.

101 (3) "Donated" means donated for use in connection either with scientific
102 or medical research or with medical treatment.

103 (4) "Fertilization" means the process whereby an egg of a human female
104 and the sperm of a human male form a zygote (i.e., fertilized egg).

105 (5) "Human embryonic stem cell research," also referred to as "early stem
106 cell research," means any scientific or medical research involving human stem
107 cells derived from in vitro fertilization blastocysts or from somatic cell nuclear
108 transfer. For purposes of this section, human embryonic stem cell research does
109 not include stem cell clinical trials.

110 (6) "In vitro fertilization" means fertilization of an egg with a sperm
111 outside the body.

112 (7) "Institutional Review Board" means a specially constituted review
113 board established and operating in accordance with federal law as set forth in 42
114 U.S.C. 289, 45 C.F.R. Part 46, and any other applicable federal statutes and
115 regulations, as amended from time to time.

116 (8) "Permitted under federal law" means, as it relates to stem cell
117 research and stem cell therapies and cures, any such research, therapies, and
118 cures that are not prohibited under federal law from being conducted or provided,
119 regardless of whether federal funds are made available for such activities.

120 (9) "Person" means any natural person, corporation, association,

121 partnership, public or private institution, or other legal entity.

122 (10) "Private or confidential medical, scientific, or other information"
123 means any private or confidential patient, medical, or personnel records or
124 matters, intellectual property or work product, whether patentable or not and
125 including but not limited to any scientific or technological innovations in which
126 an entity or person involved in the research has a proprietary interest,
127 prepublication scientific working papers, research, or data, and any other matter
128 excepted from disclosure under Chapter 610, RSMo, as amended from time to
129 time.

130 (11) "Solely for the purpose of stem cell research" means producing human
131 blastocysts using in vitro fertilization exclusively for stem cell research, but does
132 not include producing any number of human blastocysts for the purpose of
133 treating human infertility.

134 (12) "Sperm" means mature spermatozoa or precursor cells such as
135 spermatids and spermatocytes.

136 (13) "Stem cell" means a cell that can divide multiple times and give rise
137 to specialized cells in the body, and includes but is not limited to the stem cells
138 generally referred to as (i) adult stem cells that are found in some body tissues
139 (including but not limited to adult stem cells derived from adult body tissues and
140 from discarded umbilical cords and placentas), and (ii) embryonic stem cells
141 (including but not limited to stem cells derived from in vitro fertilization
142 blastocysts and from cell reprogramming techniques such as somatic cell nuclear
143 transfer).

144 (14) "Stem cell clinical trials" means federally regulated clinical trials
145 involving stem cells and human subjects designed to develop, or assess or test the
146 efficacy or safety of, medical treatments.

147 (15) "Stem cell research" means any scientific or medical research
148 involving stem cells. For purposes of this section, stem cell research does not
149 include stem cell clinical trials.

150 (16) "Stem cell therapies and cures" means any medical treatment that
151 involves or otherwise derives from the use of stem cells, and that is used to treat
152 or cure any disease or injury. For purposes of this section, stem cell therapies
153 and cures does include stem cell clinical trials.

154 (17) "Valuable consideration" means financial gain or advantage, but does
155 not include reimbursement for reasonable costs incurred in connection with the
156 removal, processing, disposal, preservation, quality control, storage, transfer, or

157 donation of human eggs, sperm, or blastocysts, including lost wages of the
158 donor. Valuable consideration also does not include the consideration paid to a
159 donor of human eggs or sperm by a fertilization clinic or sperm bank, as well as
160 any other consideration expressly allowed by federal law.

161 7. The provisions of this section and of all state and local laws,
162 regulations, rules, charters, ordinances, and other governmental actions shall be
163 construed in favor of the conduct of stem cell research and the provision of stem
164 cell therapies and cures. No state or local law, regulation, rule, charter,
165 ordinance, or other governmental action shall (i) prevent, restrict, obstruct, or
166 discourage any stem cell research or stem cell therapies and cures that are
167 permitted by this section to be conducted or provided, or (ii) create disincentives
168 for any person to engage in or otherwise associate with such research or therapies
169 and cures.

170 8. The provisions of this section are self-executing. All of the provisions
171 of this section are severable. If any provision of this section is found by a court
172 of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the
173 remaining provisions of this section shall be and remain valid.] **No person may**
174 **clone or attempt to clone a human being.**

175 2. **"Clone a human being" means to produce a human zygote,**
176 **human blastocyst, or human embryo by means other than the**
177 **fertilization of an egg of a human female by the sperm of a human male.**

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