

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 1232

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PERMITTING BIOMEDICAL RESEARCH ON LIMITED CATEGORIES OF HUMAN
EMBRYONIC STEM CELLS; PROHIBITING HUMAN CLONING; AMENDING THE
MATERNAL, FETAL AND INFANT EXPERIMENTATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Biomedical Research
Act".

Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that an estimated one
hundred twenty-eight million Americans suffer from the
crippling physical, economic and psychological burdens of
chronic, degenerative and acute diseases, including Alzheimer's
disease, heart disease, diabetes, Parkinson's disease, spinal

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underscored material = new
[bracketed material] = delete

1 cord injuries, macular degeneration, multiple sclerosis, Lou
2 Gehrig's disease and cancer. The legislature further finds
3 that human embryonic stem cell research and other biomedical
4 research in the life sciences and regenerative medicine present
5 a significant chance of yielding fundamental biological
6 knowledge from which may emanate therapies to relieve, on a
7 large scale, human suffering from disease and injury.

8 B. The purpose of the Biomedical Research Act is to
9 foster research and therapies in the life sciences and
10 regenerative medicine by permitting research and clinical
11 applications involving the derivation and use of certain human
12 embryonic stem cells or stem cell lines while at the same time
13 prohibiting human reproductive cloning.

14 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
15 Biomedical Research Act:

16 A. "cell lines" means a permanently established
17 cell culture that will proliferate indefinitely given
18 appropriate fresh medium and space;

19 B. "embryo" means an organism of the species Homo
20 sapiens formed by fertilization;

21 C. "fertilization" means the process whereby the
22 male sperm and female ovum unite to form an embryo;

23 D. "human adult stem cell" means an
24 undifferentiated cell found in differentiated tissue that can
25 renew itself and differentiate to yield specialized cell types;

.168456.3

1 E. "human reproductive cloning" means the asexual
2 genetic replication of a human being by transferring a
3 pre-implantation embryo into a uterus or uterine-like
4 environment with the purpose of creating a human fetus or a
5 human child;

6 F. "in vitro" means in an artificial environment,
7 including a test tube or culture medium, and refers also to a
8 process or reaction occurring in an artificial environment;

9 G. "in vitro fertilization" means an assisted
10 reproduction technique in which fertilization is accomplished
11 outside the human body;

12 H. "placental cells" means cells obtained from the
13 placenta;

14 I. "pre-implantation embryo" means an embryo formed
15 and maintained outside the human body, by in vitro
16 fertilization, that has not experienced more than fourteen days
17 of development; provided that such length of time does not
18 include any interval in which the development has been
19 suspended, such as through freezing;

20 J. "primitive streak" means a structure that forms
21 during the early stages of embryonic development and is
22 characterized as a furrow in the midline of the embryonic disc,
23 and generally develops around the fourteenth day of existence;
24 and

25 K. "umbilical cord stem cells" means cells derived

.168456.3

1 from an umbilical cord.

2 Section 4. [NEW MATERIAL] BIOMEDICAL RESEARCH PERMITTED--
3 LIMITATIONS--RESEARCH PROHIBITIONS.--

4 A. Research and clinical applications conducted in
5 accordance with the Biomedical Research Act that involve the
6 derivation and use of pre-implantation human embryonic stem
7 cells derived from embryos produced by in vitro fertilization
8 clinics and targeted for disposal or deemed excess tissue, stem
9 cell lines, human adult stem cells from any source, umbilical
10 cord stem cells and placental cells shall be permitted.

11 B. Research involving the derivation of human
12 embryonic stem cells through the use of human genetic material,
13 as permitted by Subsection A of this section, shall only be
14 conducted in accordance with guidelines and policies
15 promulgated by the United States department of health and human
16 services' office for human research protection as well as the
17 national research council and the institute of medicine of the
18 national academies.

19 C. Research that involves in vitro culture of an
20 intact human embryo, regardless of derivation method, for
21 longer than fourteen days or until formation of the primitive
22 streak begins, whichever occurs first, may not be conducted.

23 Section 5. [NEW MATERIAL] HUMAN REPRODUCTIVE CLONING
24 PROHIBITED.--

25 A. It is unlawful knowingly to engage or assist in

1 human reproductive cloning or attempted human reproductive
2 cloning of a human being.

3 B. A person shall not knowingly purchase, sell,
4 transfer or otherwise obtain human embryonic, gametic or
5 cadaveric tissue for the purpose of reproductive cloning.

6 C. A person shall not knowingly create an embryo by
7 the method of fertilization with the sole intent of donating
8 the embryo for research.

9 Section 6. [NEW MATERIAL] SCIENTIFIC RESEARCH--EXEMPT
10 EMPLOYEES.--An employee shall not be required to conduct
11 scientific research, experimentation or study that involves the
12 creation or use of pre-implantation embryos in relation to
13 human embryonic stem cell research to the extent that such
14 research conflicts with the sincerely held religious practices
15 or beliefs of the employee.

16 Section 7. [NEW MATERIAL] PENALTIES.--Violation of the
17 provisions of the Biomedical Research Act is a misdemeanor and
18 shall be punishable by a fine of not more than twenty-five
19 thousand dollars (\$25,000) or imprisonment for not more than
20 one year or by both fine and imprisonment.

21 Section 8. Section 24-9A-1 NMSA 1978 (being Laws 1979,
22 Chapter 132, Section 1, as amended) is amended to read:

23 "24-9A-1. DEFINITIONS.--As used in the Maternal, Fetal
24 and Infant Experimentation Act:

25 A. "viability" means that stage of fetal

.168456.3

1 development when the unborn child is potentially able to live
2 outside the mother's womb, albeit with artificial aid;

3 B. "conception" means the fertilization of the ovum
4 of a human female by the sperm of a human male;

5 C. "health" means physical or mental health;

6 D. "clinical research" means any biomedical or
7 behavioral research involving human subjects, including the
8 unborn, conducted according to a formal procedure. The term is
9 to be construed liberally to embrace research concerning all
10 physiological processes in [~~man~~] human beings and includes
11 research involving human in vitro fertilization, but shall not
12 include diagnostic testing, treatment, therapy or related
13 procedures conducted by formal protocols deemed necessary for
14 the care of the particular patient upon whom such activity is
15 performed and shall not include human in vitro fertilization
16 performed to treat infertility; provided that this procedure
17 shall include provisions to [~~insure~~] ensure that each living
18 fertilized ovum, zygote or embryo is implanted in a human
19 female recipient, and no physician may stipulate that a woman
20 must abort in the event the pregnancy should produce a deformed
21 or handicapped child; and provided that emergency medical
22 procedures necessary to preserve the life or health of the
23 mother or the fetus shall not be considered to be clinical
24 research;

25 E. "subject at risk", "subject" or "at risk" means

1 any individual who may be exposed to the likelihood of injury,
2 including physical or psychological injury, as a consequence of
3 participation as a subject in:

4 (1) any research, development or related
5 activity [~~which~~] that departs from the application of those
6 established and accepted methods deemed necessary to meet [~~his~~]
7 the individual's needs;

8 (2) controlled research studies necessary to
9 establish accepted methods designed to meet [~~his~~] the
10 individual's needs; or

11 (3) research activity [~~which~~] that poses a
12 significant risk to the subject;

13 F. "significant risk" means any activity [~~which~~]
14 that is likely to cause disfigurement or loss or impairment of
15 the function of any member or organ;

16 G. "fetus" means the product of conception from the
17 time of conception until the expulsion or extraction of the
18 fetus or the opening of the uterine cavity, but shall not
19 include the placenta, extraembryonic membranes, umbilical cord,
20 extraembryonic fluids and their resident cell types, [~~and~~]
21 cultured cells or products of conception produced by in vitro
22 fertilization clinics and targeted for disposal or deemed
23 excess tissue;

24 H. "live-born infant" means an offspring of a human
25 being [~~which~~] that exhibits either heartbeat, spontaneous

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1 respiratory activity, spontaneous movement of voluntary muscles
2 or pulsation of the umbilical cord if still attached to the
3 infant ex utero; provided the Maternal, Fetal and Infant
4 Experimentation Act does not apply to a fetus or infant absent
5 the characteristics set forth in this subsection;

6 I. "infant" means an offspring of a human being
7 from the time it is born until the end of its first
8 chronological year;

9 J. "born" means the time the head or any other part
10 of the body of the fetus emerges from the vagina or the time
11 the uterine cavity is opened during a caesarean section or
12 hysterotomy; and

13 K. "in vitro fertilization" means any fertilization
14 of human ova [~~which~~] that occurs outside the body of a female,
15 either through admixture of donor human sperm and ova or by any
16 other means."

17 Section 9. Section 24-9A-7 NMSA 1978 (being Laws 1979,
18 Chapter 132, Section 7) is amended to read:

19 "24-9A-7. SHORT TITLE.--~~[Sections 1 through 7 of this~~
20 ~~act]~~ Chapter 24, Article 9A NMSA 1978 may be cited as the
21 "Maternal, Fetal and Infant Experimentation Act"."