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HOUSE BILL 166

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Al Park

AN ACT

RELATING TO HEALTH; PERMITTING BIOMEDICAL RESEARCH ON LIMITED CATEGORIES OF HUMAN EMBRYONIC STEM CELLS; PROHIBITING HUMAN CLONING; IMPOSING PENALTIES; 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 6 of this act may be cited as the "Biomedical Research Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the Biomedical Research Act:

A. "cell lines" means a permanently established cell culture that will proliferate indefinitely given the appropriate laboratory conditions;

B. "embryo" means a fertilized human egg that has

1 begun cell division;

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

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

7 E. "human reproductive cloning" means the asexual
8 creation of an embryo;

9 F. "in vitro" means in a laboratory or clinical
10 environment, including a test tube or culture medium, and also
11 refers to a process or reaction occurring in a laboratory or
12 clinical environment;

13 G. "in vitro fertilization" means an assisted
14 reproduction technique in which fertilization is accomplished
15 outside the human body;

16 H. "placental cells" means cells obtained from the
17 placenta;

18 I. "pre-implantation embryo" means an embryo formed
19 and maintained outside the human body, by in vitro
20 fertilization, that has not experienced more than fourteen days
21 of development, excluding time the embryo was cryopreserved or
22 frozen;

23 J. "primitive streak" means a structure that forms
24 during the early stages of embryonic development and is
25 characterized as a furrow in the midline of the embryonic disc

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1 and generally develops around the fourteenth day of existence;
2 and

3 K. "umbilical cord stem cells" means cells derived
4 from an umbilical cord.

5 Section 3. [NEW MATERIAL] BIOMEDICAL RESEARCH PERMITTED--
6 LIMITATIONS--RESEARCH PROHIBITIONS.--

7 A. Research and clinical applications conducted in
8 accordance with the Biomedical Research Act that involve the
9 derivation and use of pre-implantation human embryonic stem
10 cells derived from embryos that are produced by in vitro
11 fertilization clinics and designated for destruction; stem cell
12 lines; human adult stem cells from any source; umbilical cord
13 stem cells; and placental cells is permitted.

14 B. Research involving the derivation of human
15 embryonic stem cells, as permitted by Subsection A of this
16 section, shall only be conducted with the informed consent of
17 the original progenitors or recipients pursuant to a sperm or
18 egg donation agreement and in accordance with guidelines and
19 policies promulgated by the United States department of health
20 and human services' office for human research protection, the
21 national research council and the institute of medicine of the
22 national academies.

23 C. Research shall not be conducted on a human
24 embryo, regardless of derivation method, for longer than
25 fourteen days or until formation of the primitive streak

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1 begins, whichever occurs first.

2 Section 4. [NEW MATERIAL] HUMAN REPRODUCTIVE CLONING
3 PROHIBITED.--

4 A. It is unlawful to knowingly engage or assist in
5 human reproductive cloning or attempted human reproductive
6 cloning of a human being.

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

10 Section 5. [NEW MATERIAL] SCIENTIFIC RESEARCH--EXEMPT
11 EMPLOYEES.--An employee shall not be required to conduct
12 scientific research, experimentation or study that involves the
13 creation or use of pre-implantation embryos in relation to
14 human embryonic stem cell research to the extent that such
15 research conflicts with the sincerely held religious practices
16 or beliefs of the employee.

17 Section 6. [NEW MATERIAL] PENALTIES.--Violation of the
18 provisions of the Biomedical Research Act is a misdemeanor and
19 shall be punishable by a fine of not more than twenty-five
20 thousand dollars (\$25,000) or imprisonment for not more than
21 one year or by both fine and imprisonment.

22 Section 7. Section 24-9A-1 NMSA 1978 (being Laws 1979,
23 Chapter 132, Section 1, as amended) is amended to read:

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

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1 A. "viability" means that stage of fetal
2 development when the unborn child is potentially able to live
3 outside the mother's womb, albeit with artificial aid;

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

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

7 D. "clinical research" means any biomedical or
8 behavioral research involving human subjects, including
9 embryos, conducted according to a formal procedure. The term
10 is to be construed liberally to embrace research concerning all
11 physiological processes in human beings and includes research
12 involving human in vitro fertilization, but shall not include
13 diagnostic testing, treatment, therapy or related procedures
14 conducted by formal protocols deemed necessary for the care of
15 the particular patient upon whom such activity is performed and
16 shall not include human in vitro fertilization performed to
17 treat infertility;

18 E. "subject at risk", "subject" or "at risk" means
19 any person who may be exposed to the likelihood of injury,
20 including physical or psychological injury, as a consequence of
21 participation as a subject in:

22 (1) any research, development or related
23 activity that departs from the application of those established
24 and accepted methods deemed necessary to meet the person's
25 needs;

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1 (2) controlled research studies necessary to
2 establish accepted methods designed to meet the person's needs;
3 or

4 (3) research activity that poses a significant
5 risk to the subject;

6 F. "significant risk" means an activity that is
7 likely to cause disfigurement or loss or impairment of the
8 function of any member or organ;

9 G. "fetus" means the product of conception from the
10 [~~time of~~] end of the eighth week after conception until the
11 expulsion or extraction of the fetus or the opening of the
12 uterine cavity, but shall not include the placenta,
13 extraembryonic membranes, umbilical cord, extraembryonic fluids
14 and their resident cell types, [~~and~~] cultured cells or products
15 of conception produced by in vitro fertilization clinics and
16 designated for destruction;

17 H. "live-born infant" means an offspring of a
18 person that exhibits heartbeat, spontaneous respiratory
19 activity, spontaneous movement of voluntary muscles or
20 pulsation of the umbilical cord if still attached to the infant
21 ex utero; provided the Maternal, Fetal and Infant
22 Experimentation Act does not apply to a fetus or infant absent
23 the characteristics set forth in this subsection;

24 I. "infant" means an offspring of a human being
25 from the time it is born until the end of its first

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1 chronological year;

2 J. "born" means the time the head or any other part
3 of the body of the fetus emerges from the vagina or the time
4 the uterine cavity is opened during a caesarean section or
5 hysterotomy; and

6 K. "in vitro fertilization" means [~~any~~
7 ~~fertilization of human ova that occurs outside the body of a~~
8 ~~female, either through admixture of donor human sperm and ova~~
9 ~~or by any other means~~] an assisted reproduction technique in
10 which fertilization is accomplished outside the human body."

11 Section 8. Section 24-9A-7 NMSA 1978 (being Laws 1979,
12 Chapter 132, Section 7) is amended to read:

13 "24-9A-7. SHORT TITLE.--~~[Sections 1 through 7 of this~~
14 ~~act]~~ Chapter 24, Article 9A NMSA 1978 may be cited as the
15 "Maternal, Fetal and Infant Experimentation Act"."

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