

394

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting human reproductive cloning, facilitating stem cell research, and protecting human subjects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new article
2 24-A-1 to read as follows:

3 ARTICLE 24-A-1

4 REPRODUCTIVE CLONING PROHIBITION AND STEM CELL RESEARCH PROTECTION
5 SECTION 2450. SHORT TITLE.
6 2451. DEFINITIONS.
7 2452. LEGISLATIVE INTENT.
8 2453. STATE POLICY.
9 2454. FERTILITY AND EMBRYO INFORMATION.
10 2455. INFORMED CONSENT.
11 2456. PROHIBITION.
12 2457. COMMISSION ON CLONING AND THERAPEUTIC RESEARCH.
13 2458. HUMAN REPRODUCTIVE CLONING PROHIBITED.
14 2459. STATE FUNDING.
15 2460. SEPARABILITY.

16 S 2450. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE
17 REPRODUCTIVE CLONING PROHIBITION AND STEM CELL RESEARCH PROTECTION ACT".

18 S 2451. DEFINITIONS. 1. "STEM CELL" MEANS AN UNDIFFERENTIATED CELL
19 THAT HAS THE ABILITY TO DIVIDE FOR INDEFINITE PERIODS IN CULTURE AND IN
20 CERTAIN PHYSIOLOGIC OR EXPERIMENTAL CONDITIONS CAN GIVE RISE TO SPECIAL-
21 IZED DIFFERENTIATED CELLS.

22 2. "STEM CELL RESEARCH" MEANS RESEARCH THAT UTILIZES EMBRYONIC STEM
23 CELLS OR ADULT STEM CELLS.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD00873-01-1

1 3. "HUMAN EMBRYONIC STEM CELL" MEANS A PRIMITIVE (UNDIFFERENTIATED)
2 CELL FROM THE EMBRYO WHICH HAS THE POTENTIAL TO BECOME A WIDE VARIETY OF
3 SPECIALIZED CELL TYPES.

4 4. "HUMAN PLURIPOTENT STEM CELL" MEANS THE MOST PRIMITIVE, UNDEVEL-
5 OPED, UNDIFFERENTIATED STEM CELLS.

6 5. "HUMAN PRIMORDIAL GERM CELLS" MEAN PLURIPOTENT CELLS THAT DEVELOP
7 INTO OOCYTE AND SPERM CELLS.

8 6. "HUMAN ADULT STEM CELL" MEANS AN UNDIFFERENTIATED CELL FOUND IN A
9 DIFFERENTIATED TISSUE THAT CAN RENEW ITSELF AND (WITH CERTAIN LIMITA-
10 TIONS) DIFFERENTIATE TO YIELD SPECIALIZED CELL TYPES OF THE TISSUE FROM
11 WHICH IT ORIGINATED.

12 7. "STEM CELL LINE" MEANS A GROUP OF CELLS DERIVED FROM THE SAME
13 INITIAL STEM CELL.

14 8. "SOMATIC CELL NUCLEAR TRANSPLANTATION" MEANS TRANSFERRING THE
15 NUCLEUS OF A SOMATIC CELL OF AN EXISTING OR PREVIOUSLY EXISTING BEING,
16 EMBRYO, OR FETUS INTO AN OOCYTE FROM WHICH THE NUCLEUS HAS BEEN REMOVED.

17 9. "OOCYTE" MEANS A FEMALE GERM CELL, THE EGG.

18 10. "VALUABLE CONSIDERATION" MEANS ANYTHING OF VALUE, INCLUDING BUT
19 NOT LIMITED TO, MONEY OFFERED AS AN INDUCEMENT.

20 11. "THERAPEUTIC TREATMENT" MEANS PREVENTATIVE, CURATIVE, OR PALLIA-
21 TIVE CARE OF AN INDIVIDUAL FOR DISEASE, DISABILITY, OR GENETIC DISORDER.

22 12. "HUMAN REPRODUCTIVE CLONING" MEANS THE PRACTICE OF CREATING OR
23 ATTEMPTING TO CREATE A HUMAN BEING BY TRANSFERRING THE NUCLEUS FROM A
24 HUMAN CELL FROM WHATEVER SOURCE INTO A HUMAN OR NONHUMAN EGG CELL FROM
25 WHICH THE NUCLEUS HAS BEEN REMOVED FOR THE PURPOSE OF CREATING A NEW
26 HUMAN BEING, OR TO IMPLANT THE RESULTING PRODUCT TO INITIATE A PREGNANCY
27 WHICH COULD RESULT IN THE BIRTH OF A HUMAN BEING.

28 13. "BLASTOCYST" MEANS A THREE TO FIVE DAY OLD EMBRYO CONSISTING OF
29 APPROXIMATELY THIRTY CELLS. THIS INNER MASS OF UNDIFFERENTIATED CELLS
30 GIVES RISE TO HUNDREDS OF HIGHLY SPECIALIZED CELLS NEEDED TO MAKE AN
31 ADULT ORGANISM.

32 14. "EMBRYONIC STEM CELL LINE" MEANS A GROUP OF CELLS DERIVED FROM AN
33 EMBRYO THAT HAVE BEEN CULTURED UNDER IN VITRO CONDITIONS THAT ALLOW FOR
34 PROLIFERATION WITHOUT DIFFERENTIATION FOR MONTHS TO YEARS.

35 15. "INSTITUTIONAL REVIEW BOARD" MEANS THE GROUP OR COMMITTEE THAT IS
36 GIVEN THE RESPONSIBILITY BY AN INSTITUTION TO REVIEW THAT INSTITUTION'S
37 RESEARCH PROJECTS INVOLVING HUMAN SUBJECTS. THE PRIMARY PURPOSE OF THE
38 IRB REVIEW IS TO ASSURE THE PROTECTION OF THE SAFETY, RIGHTS, AND
39 WELFARE OF THE HUMAN SUBJECTS.

40 S 2452. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DECLARES ALL OF
41 THE FOLLOWING:

42 1. AN ESTIMATED ONE HUNDRED TWENTY-EIGHT MILLION AMERICANS SUFFER FROM
43 THE CRIPPLING ECONOMIC, PHYSICAL AND PSYCHOLOGICAL BURDEN OF CHRONIC,
44 DEGENERATIVE, AND ACUTE DISEASES, INCLUDING DIABETES, PARKINSON'S
45 DISEASE, CANCER, AND ALZHEIMER'S DISEASE.

46 2. THE COSTS OF TREATMENT AND LOST PRODUCTIVITY OF CHRONIC, DEGENERA-
47 TIVE, AND ACUTE DISEASES IN THE UNITED STATES CONSTITUTE HUNDREDS OF
48 BILLIONS OF DOLLARS EVERY YEAR. ESTIMATES OF THE ECONOMIC COSTS OF THESE
49 DISEASES DO NOT ACCOUNT FOR THE EXTREME HUMAN LOSS AND SUFFERING ASSOCI-
50 ATED WITH THESE CONDITIONS.

51 3. STEM CELL RESEARCH, INCLUDING BOTH ADULT AND EMBRYONIC RESEARCH,
52 OFFERS IMMENSE PROMISE FOR DEVELOPING NEW MEDICAL THERAPIES FOR THESE
53 DEBILITATING DISEASES AND A CRITICAL MEANS TO EXPLORE FUNDAMENTAL QUES-
54 TIONS OF BIOLOGY. STEM CELL RESEARCH COULD LEAD TO UNPRECEDENTED TREAT-
55 MENTS AND POTENTIAL CURES FOR DIABETES, ALZHEIMER'S DISEASE, CANCER, AND
56 OTHER DISEASES. NEW YORK SUPPORTS STEM CELL RESEARCH AS AN AVENUE FOR

1 THE DEVELOPMENT OF AFFORDABLE AND ACCESSIBLE TREATMENTS FOR THESE VARIED
2 PUBLIC HEALTH THREATS.

3 4. NEW YORK HAS HISTORICALLY BEEN A HAVEN FOR OPEN SCIENTIFIC INQUIRY
4 AND TECHNOLOGICAL INNOVATION, AND THIS ENVIRONMENT, COUPLED WITH THE
5 COMMITMENT OF PUBLIC AND PRIVATE RESOURCES, HAS MADE NEW YORK THE PREEM-
6 INENT WORLD LEADER IN BIOMEDICINE AND BIOTECHNOLOGY. NEW YORK WILL TAKE
7 A LEADERSHIP ROLE IN SUPPORTING STEM CELL RESEARCH, BOTH FOR THE CURES
8 THAT ARE PROMISED AND FOR THE ADVANCEMENTS THAT WILL RESULT FROM DEVEL-
9 OPING THIS PLATFORM TECHNOLOGY.

10 5. THE BIOMEDICAL INDUSTRY IS A POTENTIALLY SIGNIFICANT COMPONENT OF
11 NEW YORK STATE'S ECONOMY. NEW YORK'S BIOMEDICAL INDUSTRY IS A CRITICAL
12 COMPONENT OF THE STATE'S ECONOMY WHICH PROVIDES SUBSTANTIAL EMPLOYMENT,
13 PAYS SUBSTANTIAL WAGES AND SALARIES, INVESTS BILLIONS OF DOLLARS IN
14 RESEARCH, REPORTS BILLIONS OF DOLLARS IN WORLDWIDE REVENUE, AND WILL BE
15 CONSIDERABLY ENHANCED BY NEW YORK STATE'S SUPPORT OF STEM CELL RESEARCH.

16 6. STEM CELL RESEARCH, INCLUDING THE USE OF EMBRYONIC STEM CELLS FOR
17 MEDICAL RESEARCH, RAISES SIGNIFICANT ETHICAL AND POLICY CONCERNS AND,
18 ALTHOUGH NOT UNIQUE, THE ETHICAL AND POLICY CONCERNS ASSOCIATED WITH
19 STEM CELL RESEARCH MUST BE CAREFULLY CONSIDERED.

20 7. PUBLIC POLICY ON STEM CELL RESEARCH SHALL BALANCE ETHICAL, SOCIETAL
21 AND MEDICAL CONSIDERATIONS. THE POLICY SHALL BE BASED ON AN UNDERSTAND-
22 ING OF THE SCIENCE ASSOCIATED WITH STEM CELL RESEARCH AND GROUNDED ON A
23 THOROUGH CONSIDERATION OF THE ETHICAL CONCERNS REGARDING THIS RESEARCH.
24 PUBLIC POLICY ON STEM CELL RESEARCH SHALL BE CAREFULLY CRAFTED TO ENSURE
25 THAT RESEARCHERS HAVE THE TOOLS NECESSARY TO FULFILL THE PROMISE OF STEM
26 CELL RESEARCH.

27 8. NEW YORK STATE SHALL REGULATE THIS IMPORTANT EMERGING TECHNOLOGY IN
28 ORDER TO PROTECT SOCIETY FROM KNOWN RISKS. HUMAN REPRODUCTIVE CLONING
29 POSES RISKS THAT FAR OUTWEIGH ITS BENEFITS.

30 9. NEW YORK STATE NEEDS TO DEVELOP A MECHANISM TO TRANSFER UNUSED
31 GENETIC MATERIAL TO RESEARCH INSTITUTIONS. DONORS MUST BE WELL INFORMED
32 OF THEIR CHOICES PRIOR TO MAKING DECISIONS FOR THE DISPOSITION OF THEIR
33 GENETIC MATERIAL. POTENTIAL DONORS OF GENETIC MATERIAL FOR STEM CELL
34 RESEARCH WILL BE THOROUGHLY PROTECTED BY A RIGOROUS, COMPREHENSIVE
35 INFORMED CONSENT PROCEDURE.

36 S 2453. STATE POLICY. THE POLICY OF THE STATE OF NEW YORK IS AS
37 FOLLOWS:

38 1. THAT RESEARCH INVOLVING THE DERIVATION AND USE OF HUMAN EMBRYONIC
39 STEM CELLS, HUMAN PRIMORDIAL GERM CELLS, AND HUMAN ADULT STEM CELLS,
40 INCLUDING SOMATIC CELL NUCLEAR TRANSPLANTATION, SHALL BE PERMITTED AND
41 THAT FULL CONSIDERATION OF THE ETHICAL, SOCIETAL AND MEDICAL IMPLI-
42 CATIONS OF THIS RESEARCH BE GIVEN.

43 2. THAT RESEARCH INVOLVING THE DERIVATION AND USE OF HUMAN EMBRYONIC
44 STEM CELLS, HUMAN PRIMORDIAL GERM CELLS, AND HUMAN ADULT STEM CELLS,
45 INCLUDING SOMATIC CELL NUCLEAR TRANSPLANTATION, SHALL BE REVIEWED BY AN
46 INSTITUTIONAL REVIEW BOARD COMPLIANT WITH ALL STATE AND FEDERAL REGU-
47 LATIONS.

48 3. THAT HUMAN EMBRYOS USED FOR STEM CELL RESEARCH SHALL BE PERMITTED
49 TO DEVELOP FOR A MAXIMUM OF FOURTEEN DAYS.

50 S 2454. FERTILITY AND EMBRYO INFORMATION. 1. A PHYSICIAN, SURGEON, OR
51 OTHER HEALTH CARE PROVIDER DELIVERING FERTILITY TREATMENT SHALL PROVIDE
52 HIS OR HER PATIENT WITH TIMELY, RELEVANT, AND APPROPRIATE INFORMATION TO
53 ALLOW THE INDIVIDUAL TO MAKE AN INFORMED AND VOLUNTARY CHOICE REGARDING
54 THE DISPOSITION OF ANY HUMAN EMBRYOS REMAINING FOLLOWING THE FERTILITY
55 TREATMENT.

1 2. THE FAILURE BY A PHYSICIAN, SURGEON OR OTHER HEALTH CARE PROVIDER
2 TO PROVIDE SUCH INFORMATION TO PATIENTS, WHO ARE CONTRIBUTING GENETIC
3 MATERIAL TO THE CREATION OF THE EMBRYO CONSTITUTES UNPROFESSIONAL
4 CONDUCT, AND SUCH FAILURE SHALL BE PUNISHABLE BY A CIVIL FINE OF FIFTY
5 THOUSAND DOLLARS FOR AN OFFENDER'S FIRST VIOLATION OF THIS SECTION; A
6 CIVIL FINE OF ONE HUNDRED THOUSAND DOLLARS FOR AN OFFENDER'S SECOND
7 VIOLATION OF THIS SECTION; AND A CIVIL FINE OF TWO HUNDRED FIFTY THOU-
8 SAND DOLLARS AND REVOCATION OF SUCH OFFENDER'S PROFESSIONAL LICENSE
9 PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW FOR AN OFFENDER'S THIRD OR
10 SUBSEQUENT VIOLATION OF THIS SECTION.

11 3. ANY INDIVIDUAL TO WHOM INFORMATION IS PROVIDED PURSUANT TO SUBDIVI-
12 SION ONE OF THIS SECTION SHALL BE PRESENTED WITH THE OPTION OF STORING
13 ANY UNUSED EMBRYOS, DONATING THEM TO ANOTHER INDIVIDUAL, DISCARDING THE
14 EMBRYOS, OR DONATING THE REMAINING EMBRYOS FOR RESEARCH. WHEN PROVIDING
15 FERTILITY TREATMENT, A PHYSICIAN AND SURGEON OR OTHER HEALTH CARE
16 PROVIDER SHALL PROVIDE A FORM TO THE INDIVIDUALS DONATING GENETIC MATE-
17 RIAL FOR USE IN FERTILITY TREATMENT THAT SETS FORTH ADVANCED WRITTEN
18 DIRECTIVES REGARDING THE DISPOSITION OF SPERM, OOCYTES (EGGS), AND EMBR-
19 YOS. SUCH FORM SHALL INDICATE THE TIME LIMIT ON STORAGE OF THE EMBRYOS
20 AT THE CLINIC OR STORAGE FACILITY AND SHALL PROVIDE, AT A MINIMUM, THE
21 FOLLOWING CHOICES FOR DISPOSITION OF THE EMBRYOS BASED ON THE FOLLOWING
22 CIRCUMSTANCES:

23 (A) IN THE EVENT THAT ALL OF THE EMBRYOS CREATED FOR FERTILITY TREAT-
24 MENTS ARE NOT USED FOR SUCH PURPOSE, THE REMAINING EMBRYOS SHALL BE
25 DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

- 26 (I) DONATION FOR RESEARCH PURPOSES.
- 27 (II) THAWED WITH NO FURTHER ACTION TAKEN.
- 28 (III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
- 29 (IV) OTHER DISPOSITION THAT IS CLEARLY STATED.

30 (B) IN THE EVENT OF THE DEATH OF EITHER OF THE PARTNERS, THE EMBRYOS
31 SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

- 32 (I) MADE AVAILABLE TO THE LIVING PARTNER.
- 33 (II) DONATION FOR RESEARCH PURPOSES.
- 34 (III) THAWED WITH NO FURTHER ACTION TAKEN.
- 35 (IV) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
- 36 (V) OTHER DISPOSITION WHICH IS CLEARLY STATED.

37 (C) IN THE EVENT OF THE DEATH OF BOTH PARTNERS OR THE DEATH OF AN
38 INDIVIDUAL WITHOUT A PARTNER, THE EMBRYOS SHALL BE DISPOSED OF BY ONE OF
39 THE FOLLOWING ACTIONS:

- 40 (I) DONATION FOR RESEARCH PURPOSES.
- 41 (II) THAWED WITH NO FURTHER ACTION TAKEN.
- 42 (III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
- 43 (IV) OTHER DISPOSITION WHICH IS CLEARLY STATED.

44 (D) IN THE EVENT OF LEGAL SEPARATION OR DIVORCE OF THE PARTNERS, THE
45 EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

- 46 (I) MADE AVAILABLE TO THE PRIOR NAMED PARTNER.
- 47 (II) DIVIDED EQUALLY BETWEEN THE PARTNERS.
- 48 (III) DONATION FOR RESEARCH PURPOSES.
- 49 (IV) THAWED WITH NO FURTHER ACTION TAKEN.
- 50 (V) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.
- 51 (VI) OTHER DISPOSITION WHICH IS CLEARLY STATED.

52 (E) IN THE EVENT OF THE PARTNERS' OR THE INDIVIDUAL'S DECISION TO
53 ABANDON THE EMBRYOS BY REQUEST OR A FAILURE TO PAY STORAGE FEES, THE
54 EMBRYOS SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

- 55 (I) DONATION FOR RESEARCH PURPOSES.
- 56 (II) THAWED WITH NO FURTHER ACTION TAKEN.

(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(IV) OTHER DISPOSITION WHICH IS CLEARLY STATED.

4. ANY WOMAN TO WHOM INFORMATION IS PROVIDED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE PRESENTED WITH THE OPTION OF STORING ANY UNUSED OOCYTES, DONATING SUCH OOCYTES TO ANOTHER INDIVIDUAL, DISCARDING THE OOCYTES, OR DONATING THE REMAINING OOCYTES FOR RESEARCH. (A) A FORM PROVIDING ADVANCED WRITTEN DIRECTIVES ON THE DISPOSITION OF ANY OOCYTES HARVESTED FOR FERTILITY TREATMENT SHALL BE SIGNED BY SUCH WOMAN PRIOR TO INITIATION OF TREATMENT.

(B) SUCH FORM SHALL INDICATE THE TIME LIMIT ON STORAGE OF THE OOCYTES AT THE CLINIC OR STORAGE FACILITY AND SHALL PROVIDE, AT A MINIMUM, THE FOLLOWING CHOICE FOR DISPOSITION OF THE OOCYTES:

IN THE EVENT THAT ALL OF THE OOCYTES HARVESTED FOR FERTILITY TREATMENTS ARE NOT USED FOR THAT PURPOSE, THE REMAINING OOCYTES SHALL BE DISPOSED OF BY ONE OF THE FOLLOWING ACTIONS:

(I) DONATION FOR RESEARCH PURPOSES.

(II) THAWED WITH NO FURTHER ACTION TAKEN.

(III) DONATION TO ANOTHER COUPLE OR INDIVIDUAL.

(IV) OTHER DISPOSITION THAT IS CLEARLY STATED.

S 2455. INFORMED CONSENT. 1. A PHYSICIAN AND SURGEON OR OTHER HEALTH CARE PROVIDER DELIVERING FERTILITY TREATMENT SHALL OBTAIN WRITTEN CONSENT FROM ANY INDIVIDUAL WHO ELECTS TO DONATE EMBRYOS OR OOCYTES REMAINING AFTER FERTILITY TREATMENTS FOR RESEARCH. FOR ANY INDIVIDUAL CONSIDERING DONATING THE EMBRYOS FOR RESEARCH, TO OBTAIN INFORMED CONSENT, THE HEALTH CARE PROVIDER SHALL CONVEY ALL OF THE FOLLOWING TO THE INDIVIDUAL:

(A) A STATEMENT THAT THE EARLY HUMAN EMBRYOS WILL BE USED TO DERIVE HUMAN PLURIPOTENT STEM CELLS FOR RESEARCH AND THAT THE CELLS MAY BE USED, AT SOME FUTURE TIME, FOR HUMAN TRANSPLANTATION RESEARCH.

(B) A STATEMENT THAT ALL NON-GENETIC IDENTIFIERS ASSOCIATED WITH THE EMBRYOS WILL BE REMOVED PRIOR TO THE DERIVATION OF HUMAN PLURIPOTENT STEM CELLS.

(C) A STATEMENT THAT OOCYTES AND GENETIC MATERIAL FROM EARLY HUMAN EMBRYOS MAY BE USED FOR SOMATIC CELL NUCLEAR TRANSPLANTATION RESEARCH.

(D) A STATEMENT THAT OOCYTES MAY BE COMBINED WITH SPERM TO CREATE EMBRYOS FOR USE IN STEM CELL RESEARCH.

(E) A STATEMENT THAT DONORS WILL NOT RECEIVE ANY INFORMATION ABOUT SUBSEQUENT TESTING ON THE EMBRYO OR OOCYTES OR THE DERIVED HUMAN PLURIPOTENT CELLS.

(F) A STATEMENT THAT DERIVED CELLS OR CELL LINES, WITH ALL NON-GENETIC IDENTIFIERS REMOVED, MAY BE KEPT FOR MANY YEARS.

(G) DISCLOSURE OF THE POSSIBILITY THAT THE DONATED MATERIAL MAY HAVE COMMERCIAL POTENTIAL, AND A STATEMENT THAT THE DONOR WILL NOT RECEIVE FINANCIAL OR ANY OTHER BENEFITS FROM ANY FUTURE COMMERCIAL DEVELOPMENT.

(H) A STATEMENT THAT THE HUMAN PLURIPOTENT STEM CELL RESEARCH IS NOT INTENDED TO PROVIDE DIRECT MEDICAL BENEFIT TO THE DONOR.

(I) A STATEMENT THAT EARLY HUMAN EMBRYOS OR OOCYTES DONATED WILL NOT BE TRANSFERRED TO A WOMAN'S UTERUS, WILL NOT SURVIVE THE HUMAN PLURIPOTENT STEM CELL DERIVATION PROCESS, AND WILL BE HANDLED RESPECTFULLY, AS IS APPROPRIATE FOR ALL HUMAN TISSUE USED IN RESEARCH.

(J) A STATEMENT THAT EMBRYONIC STEM CELL LINES DEVELOPED FROM DONATED MATERIAL WILL NOT BE PATENTED.

2. EMBRYOS OR OOCYTES DONATED FOR RESEARCH PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE CAN BE USED FOR THE PURPOSES ENUMERATED IN ANY PRIOR CONSENTS. SUCH PREVIOUSLY SIGNED CONSENTS SHALL REMAIN IN FORCE WITH RESPECT TO RESEARCH CONDUCTED ON SUCH EMBRYOS OR OOCYTES COVERED IN SUCH

1 PRIOR CONSENTS. ALL EMBRYOS AND OOCYTES DONATED AFTER THE EFFECTIVE DATE
2 OF THIS ARTICLE SHALL BE DONATED IN ACCORDANCE WITH THE INFORMED CONSENT
3 PROCESS DESCRIBED IN THIS SECTION.

4 S 2456. PROHIBITION. 1. A PERSON MAY NOT KNOWINGLY, FOR VALUABLE
5 CONSIDERATION, PURCHASE OR SELL EMBRYONIC OR CADAVERIC FETAL TISSUE FOR
6 RESEARCH PURPOSES.

7 2. FOR THE PURPOSES OF THIS SECTION, "VALUABLE CONSIDERATION" DOES NOT
8 INCLUDE REASONABLE PAYMENT FOR THE REMOVAL, PROCESSING, DISPOSAL, PRES-
9 ERVATION, QUALITY CONTROL, STORAGE, TRANSPLANTATION, OR IMPLANTATION OF
10 EMBRYONIC OR CADAVERIC FETAL TISSUE OR GENETIC MATERIAL DERIVED FROM
11 EMBRYONIC OR CADAVERIC FETAL TISSUE.

12 3. EMBRYONIC OR CADAVERIC FETAL TISSUE MAY BE DONATED FOR RESEARCH
13 PURPOSES PURSUANT TO THIS CHAPTER.

14 4. PATENTS FOR EMBRYOS OR EMBRYO STEM CELL LINES SHALL BE PROHIBITED
15 FROM BEING APPROVED. MONETARY GAIN FROM THE INITIAL DONATION OR CREATION
16 OF THE STEM CELL LINE IS PROHIBITED. THERAPEUTIC TREATMENTS RESULTING
17 FROM STEM CELL RESEARCH ARE PERMITTED TO BE PATENTED.

18 5. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUIL-
19 TY OF A CLASS D FELONY.

20 S 2457. COMMISSION ON CLONING AND THERAPEUTIC RESEARCH. 1. THERE IS
21 HEREBY CREATED IN THE DEPARTMENT, THE COMMISSION ON CLONING AND THERA-
22 PEUTIC RESEARCH, WHICH SHALL CONSIST OF THE FOLLOWING TWELVE MEMBERS:

23 (A) SIX MEMBERS APPOINTED BY THE GOVERNOR;

24 (B) TWO MEMBERS APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

25 (C) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

26 (D) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

27 (E) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY.

28 2. OF THE MEMBERS APPOINTED TO SUCH COMMISSION,

29 (A) TWO MEMBERS SHALL BE PHYSICIANS LICENSED TO PRACTICE PURSUANT TO
30 TITLE EIGHT OF THE EDUCATION LAW;

31 (B) ONE MEMBER SHALL BE A HEALTH CARE PROVIDER LICENSED TO PRACTICE
32 PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW, OTHER THAN A PHYSICIAN;

33 (C) ONE MEMBER SHALL BE A WOMEN'S HEALTH ADVOCATE;

34 (D) ONE MEMBER SHALL BE A CURRENT OR FORMER PATIENT INVOLVED IN
35 FERTILITY TREATMENTS;

36 (E) TWO MEMBERS SHALL BE CURRENT PATIENTS UNDER CARE FOR TWO DIFFERENT
37 DISEASES, DISORDERS OR DISABILITIES FOR WHICH STEM CELL RESEARCH HOLDS
38 PROMISE FOR TREATMENT OR CURE;

39 (F) ONE MEMBER SHALL BE A SCIENTIST INVOLVED IN ADULT STEM CELL
40 RESEARCH;

41 (G) ONE MEMBER SHALL BE A PUBLIC HEALTH ATTORNEY OR ADVOCATE;

42 (H) TWO MEMBERS SHALL BE SCIENTISTS INVOLVED IN THERAPEUTIC CLONING
43 RESEARCH; AND

44 (I) ONE MEMBER SHALL BE A MEDICAL ETHICIST. THE MEDICAL ETHICIST
45 SHOULD MEET ONE OF THE FOLLOWING CRITERIA: A MINIMUM OF FIVE YEARS
46 SERVICE ON AN ETHICS BOARD AT A HOSPITAL OR ACADEMIC MEDICAL INSTITU-
47 TION; ONE YEAR MINIMUM EMPLOYMENT AS A BIO-ETHICIST; CONTRIBUTED THREE
48 OR MORE ARTICLES TO PEER REVIEWED PUBLICATIONS; AN UNDERGRADUATE DEGREE
49 IN MEDICAL ETHICS AND TWO YEARS EXPERIENCE ON AN ETHICS BOARD; OR A
50 GRADUATE DEGREE IN MEDICAL ETHICS.

51 3. THE COMMISSION SHALL BE APPOINTED TO REFLECT THE COMPOSITION OF THE
52 STATE WITH RESPECT TO ITS GENDER AND MINORITY POPULATIONS.

53 4. OF THE MEMBERS INITIALLY APPOINTED BY THE GOVERNOR, EACH MEMBER
54 SHALL BE APPOINTED TO SERVE A TWO YEAR TERM. OF THE MEMBERS INITIALLY
55 APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF
56 THE ASSEMBLY, EACH MEMBER SHALL BE APPOINTED TO SERVE A THREE YEAR TERM.

1 OF THE MEMBERS INITIALLY APPOINTED BY THE MINORITY LEADERS OF THE SENATE
2 AND ASSEMBLY, EACH MEMBER SHALL SERVE A FOUR YEAR TERM. AFTER SUCH
3 INITIAL APPOINTMENTS, THE TERM FOR MEMBERS OF SUCH COMMISSION SHALL BE
4 FOUR YEARS; PROVIDED, HOWEVER, THAT THE TWO MEMBERS REPRESENTING
5 PATIENTS FROM THE DISEASE, DISORDER OR DISABILITY COMMUNITY, AS PROVIDED
6 IN PARAGRAPH (E) OF SUBDIVISION TWO OF THIS SECTION, SHALL BE APPOINTED
7 TO SERVE A TWO YEAR TERM. ANY MEMBER APPOINTED TO SUCH COMMISSION MAY
8 BE REAPPOINTED FOR ADDITIONAL TERMS.

9 5. ANY MEMBER CHOSEN TO FILL A VACANCY CREATED OTHERWISE THAN BY EXPI-
10 RATION OF TERM SHALL BE APPOINTED BY THE ORIGINAL APPOINTING AUTHORITY
11 FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE IS TO SUCCEED. ANY SUCH
12 VACANCY SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

13 6. THE COMMISSION SHALL MEET AT LEAST FOUR TIMES EACH YEAR AND MAY
14 ESTABLISH ITS OWN RULES AND PROCEDURES CONCERNING THE CONDUCT OF ITS
15 MEETINGS AND OTHER AFFAIRS NOT INCONSISTENT WITH LAW. MEMBERS SHALL
16 SERVE WITHOUT SALARY BUT SHALL BE ENTITLED TO REIMBURSEMENT OF THEIR
17 ORDINARY AND NECESSARY TRAVEL EXPENSES.

18 7. NO MEMBER OF SUCH COMMISSION SHALL BE DISQUALIFIED FROM HOLDING ANY
19 PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE
20 OR EMPLOYMENT, BY REASON OF HIS OR HER APPOINTMENT UNDER THIS SECTION,
21 AND MEMBERS OF SUCH COMMISSION SHALL NOT BE REQUIRED TO TAKE AND FILE
22 OATHS OF OFFICE BEFORE SERVING ON SUCH COMMISSION. MEMBERS OF SUCH
23 COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE
24 ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
25 OF THEIR FUNCTIONS UNDER THIS SECTION.

26 8. THE COMMISSION MAY EMPLOY AND AT ITS PLEASURE REMOVE SUCH PERSONNEL
27 AS IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS AND FIX
28 THEIR COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE BY APPROPRIATION.
29 SUCH COMMISSION MAY MEET AND HOLD PUBLIC AND/OR PRIVATE HEARINGS WITHIN
30 THE STATE.

31 9. FOR THE ACCOMPLISHMENT OF ITS PURPOSES, THE COMMISSION SHALL BE
32 AUTHORIZED AND EMPOWERED TO UNDERTAKE ANY STUDIES, INQUIRIES, SURVEYS OR
33 ANALYSES IT MAY DEEM RELEVANT THROUGH ITS OWN PERSONNEL OR IN COOPER-
34 ATION WITH OR BY AGREEMENT WITH ANY OTHER PUBLIC OR PRIVATE AGENCY.

35 10. SUCH COMMISSION SHALL:

36 (A) KEEP UP-TO-DATE ON SCIENTIFIC TECHNOLOGICAL ADVANCES, AND SOCIETAL
37 AND ETHICAL ISSUES WHICH WILL IMPACT THE DIRECTION OF STEM CELL
38 RESEARCH.

39 (B) FORMULATE PRIORITIES TO MAXIMIZE THE IMPACT OF STEM CELL RESEARCH
40 IN NEW YORK STATE BASED UPON THE GOALS OF SCIENTIFIC ADVANCEMENT, THERA-
41 PEUTIC PROMISE, AND LOCAL ECONOMIC DEVELOPMENT.

42 (C) MAKE RECOMMENDATIONS TO THE LEGISLATURE REGARDING CHANGES TO THIS
43 ARTICLE AND OTHER STATE LAWS NECESSARY TO PROMOTE SCIENTIFIC INQUIRY AND
44 PROTECT HUMAN SUBJECTS WHO DONATE GENETIC MATERIAL OR WHO PARTICIPATE IN
45 THERAPEUTIC TRIALS.

46 (D) CONSULT WITH THE DEPARTMENT REGARDING REGULATION AND OVERSIGHT OF
47 FERTILITY CLINICS AND RESEARCHERS.

48 (E) EXPLORE THE NECESSITY FOR CREATING A SYSTEM, INCLUDING THE DEVEL-
49 OPMENT OF AN EMBRYONIC REGISTRY, TO FURTHER FACILITATE THE PROCESS OF
50 TRANSFERRING DONATED MATERIALS.

51 (F) WRITE GUIDELINES FOR THE ESTABLISHMENT OF A REGISTRY OF CLONED
52 EMBRYOS TO BE OVERSEEN BY THE DEPARTMENT, THE PURPOSE OF WHICH IS TO
53 STRICTLY GOVERN THE USE OF CLONING TECHNOLOGY AND LIMIT IT TO THERAPEU-
54 TIC RATHER THAN REPRODUCTIVE GOALS.

55 (G) INVESTIGATE EMERGING ISSUES RELATED TO DONATED GENETIC MATERIAL
56 AND STEM CELL RESEARCH, INCLUDING, BUT NOT LIMITED TO: THE RANGE OF

1 GENETIC DIVERSITY AVAILABLE THROUGH FERTILITY CLINICS AND THE NEED FOR
2 ADDITIONAL DONORS, AND THE ACCESS TO CLINICAL TRIALS AND DEVELOPING
3 TREATMENTS FOR MINORITY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.

4 (H) WORK WITH THE DEPARTMENT TO DEVELOP INFORMED CONSENT PROCEDURES
5 AND REGULATIONS FOR THE DONATION OF GENETIC MATERIAL OUTSIDE THE CONTEXT
6 OF FERTILITY CLINICS SHOULD THE NEED FOR ADDITIONAL DONATED MATERIAL
7 ARISE.

8 11. SUCH COMMISSION SHALL MAKE A PUBLIC REPORT ANNUALLY TO THE GOVER-
9 NOR, THE SENATE AND THE ASSEMBLY OF ITS FINDINGS, CONCLUSIONS, PROPOSALS
10 AND RECOMMENDATIONS AS PROVIDED IN SUBDIVISION TEN OF THIS SECTION, NOT
11 LATER THAN DECEMBER FIRST OF EACH YEAR, ON ITS FINDINGS, CONCLUSIONS,
12 PROPOSALS AND RECOMMENDATIONS AND SHALL SUBMIT WITH ITS REPORTS SUCH
13 LEGISLATIVE PROPOSALS AS IT DEEMS NECESSARY TO IMPLEMENT ITS PROPOSALS
14 AND RECOMMENDATIONS.

15 12. ALL STATE AGENCIES ARE HEREBY AUTHORIZED AND DIRECTED TO PROVIDE
16 ASSISTANCE AND AVAILABLE RESOURCES, AS REQUESTED BY SUCH COMMISSION, IN
17 ORDER TO EFFECTUATE THE PURPOSES OF THIS SECTION.

18 S 2458. HUMAN REPRODUCTIVE CLONING PROHIBITED. 1. FOR THE PURPOSES OF
19 THIS SECTION, "HUMAN REPRODUCTIVE CLONING" MEANS THE PRACTICE OF CREAT-
20 ING OR ATTEMPTING TO CREATE A HUMAN BEING BY TRANSFERRING THE NUCLEUS
21 FROM A HUMAN CELL FROM WHATEVER SOURCE INTO A HUMAN OR NONHUMAN EGG CELL
22 FROM WHICH THE NUCLEUS HAS BEEN REMOVED FOR THE PURPOSE OF CREATING A
23 NEW HUMAN BEING, OR TO IMPLANT THE RESULTING PRODUCT TO INITIATE A PREG-
24 NANCY WHICH COULD RESULT IN THE BIRTH OF A HUMAN BEING.

25 2. NO PERSON SHALL KNOWINGLY ENGAGE OR ASSIST, DIRECTLY OR INDIRECTLY,
26 IN HUMAN REPRODUCTIVE CLONING.

27 3. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUIL-
28 TY OF A CLASS B FELONY AND SHALL BE SUBJECT TO A FINE OF UP TO TWO
29 HUNDRED FIFTY THOUSAND DOLLARS.

30 S 2459. STATE FUNDING. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF
31 LAW, MONIES APPROPRIATED FOR THE PURPOSE OF THERAPEUTIC RESEARCH MAY BE
32 USED FOR STEM CELL, EMBRYONIC, AND FETAL TISSUE RESEARCH.

33 S 2460. SEPARABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
34 PART OF THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURIS-
35 DICTION TO BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL
36 REVIEW, THE JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAIN-
37 DER THEREOF, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE,
38 SENTENCE, PARAGRAPH, SECTION, OR PART OF THIS ARTICLE DIRECTLY INVOLVED
39 IN THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED.

40 S 2. This act shall take effect on the one hundred twentieth day after
41 it shall have become a law; provided that the commissioner of health is
42 authorized to promulgate any and all rules and regulations and take any
43 other measures necessary to implement this act on its effective date on
44 or before such date.