

2003 ASSEMBLY BILL 104

February 26, 2003 – Introduced by Representatives KESTELL, KRAWCZYK, PETTIS, SUDER, GUNDRUM, HINES, HUNDERTMARK, WIECKERT, M. LEHMAN, HAHN, ZIEGELBAUER, GIELOW, BIES, JESKEWITZ, OWENS, TOWNS, MCCORMICK, J. FITZGERALD, VAN ROY, SERATTI, GUNDERSON, TOWNSEND, LADWIG, OTT, STONE, NASS, ALBERS, LEMAHIEU, FREESE, GROTHMAN, PETROWSKI, GOTTLIEB, STASKUNAS, LOEFFELHOLZ, NISCHKE, WEBER, M. WILLIAMS, VUKMIR, VRAKAS, KREIBICH, RHOADES, KERKMAN and VAN AKKEREN, cosponsored by Senators LEIBHAM, S. FITZGERALD, SCHULTZ, WELCH, STEPP, A. LASEE, KANAVAS, REYNOLDS, KEDZIE, LAZICH, ZIEN and ROESSLER. Referred to Committee on Health.

- 1 **AN ACT** *to create* 146.347 of the statutes; **relating to:** human cloning and
2 parthenogenesis and providing penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits human cloning and parthenogenesis; attempting to perform human cloning or parthenogenesis; transferring or acquiring a human embryo produced by human cloning or parthenogenesis; and transferring or acquiring any embryo, cell, tissue, or product derived from a human embryo produced by human cloning or parthenogenesis. The bill defines “human cloning” as introducing nuclear material from one or more human somatic cells (a human cell with a complete set of chromosomes) into an egg cell, the nuclear material of which has been removed or inactivated, so as to produce a living organism, including a human embryo, having genetic material that is virtually identical to the genetic material of an existing or previously existing human organism. The bill defines “human parthenogenesis” as the process of manipulating the genetic material of a human egg cell, without introducing into it the genetic material from any other cell, in a way that causes the egg cell to become a human embryo.

A person who violates one of the prohibitions relating to human cloning or parthenogenesis on or after February 1, 2003, may be imprisoned for not more than ten years and may be fined up to: 1) \$500,000 or, if the person derives a pecuniary gain from the violation, an amount equal to twice the gross amount of the person’s pecuniary gain, whichever is greater, if the violation was committed by a corporation, partnership, association, government, government agency, or any other entity; or 2) \$250,000 or, if the person derives a pecuniary gain from the violation, an amount

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equal to twice the gross amount of the person's pecuniary gain, whichever is greater, if the violation was committed by an individual. A person who violates one of the prohibitions is also subject to a civil monetary penalty (a forfeiture) of \$1,000,000 if the person derives a pecuniary gain from the violation, unless the person's gross pecuniary gain exceeds \$500,000. In that case, the amount of the forfeiture must be between \$1,000,000 and twice the amount of the person's gross pecuniary gain.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.347 of the statutes is created to read:

2 **146.347 Human cloning and parthenogenesis. (1)** In this section:

3 (a) "Asexual reproduction" means reproduction not initiated by the union of an
4 oocyte and a sperm.

5 (b) "Enucleated oocyte" means a fertilized or unfertilized oocyte, the nuclear
6 material of which has been removed or inactivated.

7 (c) "Human cloning" means asexual reproduction accomplished by introducing
8 nuclear material from one or more human somatic cells into an enucleated oocyte so
9 as to produce a living organism having genetic material that is virtually identical to
10 the genetic material of an existing or previously existing human organism.

11 (d) "Human embryo" means a human organism derived by fertilization,
12 parthenogenesis, cloning, or any other means from one or more human gametes or
13 human diploid cells. "Human embryo" includes a zygote but does not include a
14 human organism at or beyond the stage of development at which the major body
15 structures are present.

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1 (e) “Human parthenogenesis” means the process of manipulating the genetic
2 material of a human oocyte, without introducing into the oocyte the genetic material
3 from any other cell, in a way that causes the oocyte to become a human embryo.

4 (f) “Living organism” includes a human embryo.

5 (g) “Somatic cell” means a cell that has a complete set of chromosomes and that
6 is obtained or derived from a living or dead human organism at any stage of
7 development.

8 **(2)** No person may knowingly do any of the following:

9 (a) Perform or attempt to perform human cloning or human parthenogenesis.

10 (b) Transfer or acquire for any purpose a human embryo produced by human
11 cloning or human parthenogenesis or any embryo, cell, tissue, or product derived
12 from a human embryo produced by human cloning or human parthenogenesis.

13 **(3)** (a) Any person who violates sub. (2) is guilty of a Class G felony, except that,
14 notwithstanding the maximum fine specified in s. 939.50 (3) (g), the person may be
15 fined under par. (b).

16 (b) 1. The maximum fine for a person other than an individual who violates sub.
17 (2) is \$500,000 or, if the person derives a pecuniary gain from the violation, an
18 amount equal to twice the gross amount of the person’s pecuniary gain, whichever
19 is greater.

20 2. The maximum fine for an individual who violates sub. (2) is \$250,000 or, if
21 the individual derives a pecuniary gain from the violation, an amount equal to twice
22 the gross amount of the individual’s pecuniary gain, whichever is greater.

23 **(4)** (a) Except as provided in par. (b), any person who violates sub. (2) and who
24 derives a pecuniary gain from the violation shall be required to forfeit \$1,000,000.

