

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 362
Finance

(Senator Dyson, *et al.*)

Human Cloning Prohibition Act of 2007

This bill alters the definition of and expands the prohibition against human cloning and establishes civil penalties for violators.

Fiscal Summary

State Effect: Increase in general fund revenues if civil penalties are imposed and collected. No effect on expenditures.

Local Effect: Minimal to none.

Small Business Effect: None.

Analysis

Bill Summary: A person may not knowingly: (1) perform or attempt to perform human cloning; (2) participate in an attempt to perform human cloning; (3) transfer or receive the product of human cloning; or (4) transfer or receive, in whole or in part, any oocyte, embryo, fetus, or human somatic cell for the purpose of human cloning.

A person may not be restricted from conducting or attempting to conduct scientific research not specifically prohibited by this bill. A person may not be prohibited from conducting or attempting to conduct research using embryonic stem cells obtained from donated unused human embryos created through in vitro fertilization for individuals being treated for infertility. A person may conduct or attempt to conduct scientific research that uses nuclear transplantation or other cloning techniques to produce

molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.

A violator is subject to a civil penalty of not less than \$1 million or a maximum of two times the gross pecuniary gain resulting from the violation, whichever is greater. A civil penalty must be paid into the State general fund. If any person fails to pay any penalty assessed under this bill, a civil action for recovery of the penalty may be brought by the State. The bill may not be construed to give a person a private right of action. A violation of the bill is grounds for the denial of an application for, denial or renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the State.

Current Law: A person may not conduct or attempt to conduct human cloning. A violator is guilty of a felony and on conviction is subject to maximum penalties of imprisonment for 10 years and/or a \$200,000 fine. A person who conducts State-funded stem cell research may not engage in any research that intentionally and directly leads to human cloning.

Background: Chapter 19 of 2006 created a Maryland Stem Cell Research Fund and a Stem Cell Research Commission in the Maryland Technology Development Corporation. The purpose of the fund is to promote State-funded stem cell research and cures through grants and loans to public and private entities. The Governor may include in the budget bill an appropriation to the Stem Cell Research Fund. In fiscal 2007, \$15 million was provided to the fund. The Governor's proposed fiscal 2008 budget includes \$25 million for this purpose.

There are two categories of stem cells: adult stem cells (*e.g.*, those derived from specific human tissues such as skin cells); and embryonic stem cells. Embryonic research, including stem cell research, involves the destruction of a fertilized ovum. Embryonic stem cells currently hold the most promise for research but also are more controversial because of their source: fetal tissue; surplus embryos from in vitro fertility procedures; and embryos created by techniques utilized in human cloning technology – somatic cell nuclear transfer.

State Fiscal Effect: General fund revenues could increase perhaps significantly, if any civil penalties are imposed and collected. The number of people paying civil penalties is expected to be minimal.

Additional Information

Prior Introductions: Similar legislation has been introduced since 2004. Most recently, SB 160 of 2006 received an unfavorable report from the Senate Education Health and Environmental Affairs Committee. HB 1462 of 2006 was heard by the House Health and Government Operations Committee but no further action was taken.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Health and Mental Hygiene, Department of Legislative Services

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ncs/jr

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510