

VIA PERSONAL DELIVERY

Office of the Attorney General
ATTN: Initiative Coordinator
1330 "I" Street
Sacramento, CA 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

February 1, 2008

**Re: Request for Title and Summary- Initiative Constitutional Amendment
For the November 2008 Election**

Dear Initiative Coordinator,

Pursuant to Article II, Section 10(d) of the California Constitution, and Section 9002 of the Election Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment for, "The Ban on Human Cloning."

Enclosed please find from the San Jose Group: 1) the language of the proposed initiative; 2) the executed certifications required by Election Code section 9608; 3) a \$200 check for the filing fee.

Should you have any questions or require further information, please contact Laura Storms, lstorms@comcast.net or the website www.sanjosegroupinitiatives.com

Sincerely,

✓ ~~Laura Storms~~
San Jose Group

SECTION 1. Title.

This Act may be known and cited as, "The Ban on Human Cloning."

SECTION 2. Declarations and Findings.

- a) At least one company has announced that it has successfully cloned a human being at the early embryonic stage of life, and others have announced that they will attempt to clone a human being using the technique known as somatic cell nuclear transfer.
- b) The people of the great State of California hereby find and declare to be true that the citizens of California are outraged with human cloning and shall not permit it.
- c) The people of the great State of California hereby find and declare to be true that attempting to clone a human being, a human embryo, a gamete, or a fetus, or a human at any stage-of- life is incomprehensible and shall be banned.
- d) The people of the great State of California hereby find and declare to be true that we desire and want to protect the human race from being infiltrated or changed or altered by laboratory created clones.

SECTION 3. Purpose and Intent.

It is the purpose of this Act to ban human cloning.

SECTION 4. Constitutional Amendment

Article XXXVI of the California Constitution is added to read:

Sec. 1. Notwithstanding Article XXXV of this Constitution or any other provision of this Constitution or law to the contrary, it shall be unlawful for any person or entity, to intentionally or knowingly:

- a) Perform or attempt to perform human cloning; or
- b) Participate in an attempt to perform human cloning; or
- c) Buy, sell, transfer or receive the product of human cloning for any purpose; or
- d) Buy, sell, transfer or receive, in whole or in part, any oocyte, embryo, fetus, or human somatic cell for the purpose of human cloning.

Sec. 2. Definitions.

For purposes of this Article:

- a) “**Human Cloning**” means human asexual reproduction, accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been or will be removed or inactivated, so as to produce an organism, at any stage of development with a human or predominantly human genetic constitution.
- b) “**Somatic Cell**” means a cell having a complete set of chromosomes obtained from a living or deceased human body at any stage of development.
- c) “**Embryo**” means a organism of the species homo sapiens from the single cell stage of development.
- d) “**Fetus**” means an organism of the species homo sapiens from eight weeks development until complete expulsion or extraction from a woman’s body, or removal from an artificial womb or other similar environment designed to nurture the development of such organism.
- e) “**Oocyte**” means the human female germ cell, the egg.

SECTION 5. STATUTORY AMENDMENTS

Sections 200 et. seq. are added to Chapter 1 of Title 8 of the Penal Code to read:

200: It shall be unlawful for any person or entity, to intentionally or knowingly:

- a) Perform or attempt to perform human cloning; or
- b) Participate in an attempt to perform human cloning; or
- c) Buy, sell, transfer or receive the product of human cloning for any purpose; or
- d) Buy, sell, transfer or receive, in whole or in part, any oocyte, embryo, fetus, or human somatic cell for the purpose of human cloning.

200.1. (a) Criminal Penalties:

- 1) Any person or entity that violates section 200(a) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 25 years without the possibility of parole
- 2) Any person or entity that violates section 200(b) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole

- 3) Any person or entity that violates section 200(c) or 200(d) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole.
- b) In addition to any criminal penalty, any person or entity that violates Section 1(a), or 1(b), or 1(c), or 1(d) and derives a pecuniary gain from such violation shall be liable for a civil penalty not less than two hundred fifty thousand dollars (\$250,000) per violation or twice the amount of gross gain, whichever is greater, in an action brought by the Attorney General. All fines collected shall be placed into the General Fund of the State of California.
- c) Any violation of this Act shall constitute unprofessional conduct and shall result in permanent revocation of the violator's license to practice medicine.
- d) Any violation of this Act may be the basis for denying an application for, denying an application for the renewal of, or revoking any license, permit, certificate, or any other form of permission required to practice or engage in a trade, occupation, or profession.
- e) All contracts for payment of license fees or royalties for intellectual property derived in whole or part from research in violation of this Article are contrary to the public policy of this State and shall be deemed unenforceable in the courts of this State.

200.2. Nothing in this Article shall restrict areas of scientific research not specifically prohibited by this Act, including *in vitro* fertilization, the administration of fertility enhancing drugs, research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, tissues, organs, plants, animals other than humans, or cells other than human embryos.

200.3. For purposes of this Article:

- a) **Human Cloning** means human asexual reproduction, accomplished by introducing the genetic material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been or will be removed or inactivated, so as to produce an organism, at any stage of development with a human or predominantly human genetic constitution.
- b) **Somatic Cell** means a cell having a complete set of chromosomes obtained from a living or deceased human body at any stage of development.
- c) **Embryo** means an organism of the species *homo sapiens* from the single cell stage of development.
- d) **Fetus** means an organism of the species *homo sapiens* from eight weeks development until complete expulsion or extraction from a woman's body, or removal from an artificial womb or other similar environment designed to nurture the development of such organism

- e) "Oocyte" means the human female germ cell, the egg.

SECTION 6. Severability

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SECTION 7. Right to Intervention

The proponent of this initiative, or his or her designee, shall have the right to intervene in any action challenging the constitutionality or enforceability of this Act. The state shall be required to pay all legal costs and fees of the proponent of this initiative as intervenor in any action challenging the constitutionality or enforceability of this Act.

SECTION 8. Conflicting Ballot Measures.

Previous ballot measures that were passed prior the passage of this measure will not be allowed to violate this measure by law. Any ballot measure on the same ballot, during the passage of this measure, that is in direct violation of this act, whether it was passed by the voters or not, if this measure received more affirmative votes than the other measure, this measure hereby nullifies and voids their measure(s). If another opposing measure or opposing measures which passed by the voters in the same election on the same ballot received a greater number of affirmative votes, the provisions of this measure shall take effect, whether in whole or in part, that is permitted by law.

If this measure were passed by the voters but another opposing measure in the same election on the same ballot were passed by the voters and supersedes with affirmative votes, which is later determined to be invalid, for whatever reason, this measure shall become fully enforceable.

Section 9. Effective date

This Act takes effect immediately upon passage.