



Policy Brief... Cloning Prohibition Act of 2001 (Weldon (FL)/Stupak) (H.R. 2505)

Order of Business: The bill will be considered on Tuesday, July 31, 2001, under a structured rule, with an hour debate on the rule, 10 minutes for an amendment by Rep. Bobby Scott (D-VA), an hour on an amendment in the nature of a substitute to be offered by Rep. Jim Greenwood (R-PA), an hour on the underlying bill, and a motion to recommit with or without instructions.

Summary: H.R. 2505 amends the federal criminal code (Title 18, chapter 15) to make it illegal for any person or entity, public or private to “knowingly— (1) perform or attempt to perform human cloning; (2) to participate in an attempt to perform human cloning; or (3) to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.”

Key definitions in the bill include:

(1) HUMAN CLONING- The term ‘human cloning’ means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

(2) ASEXUAL REPRODUCTION- The term ‘asexual reproduction’ means reproduction not initiated by the union of oocyte and sperm.

(3) SOMATIC CELL- The term ‘somatic cell’ means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

The bill specifically states that it *does not restrict* research not specifically prohibited in the bill, including research in the use of nuclear transfer or other techniques to clone “molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.”

Cost to Taxpayers: Based on information from the Department of Justice, CBO does not expect many cases would be prosecuted under the bill and therefore estimates that enacting this legislation would have a negligible effect on receipts and direct spending.

H.R. 2505 would impose an unfunded mandate as defined in UMRA because it would prohibit public and private entities from performing human cloning. CBO notes the mandate does not exceed the UMRA thresholds and estimates minimal costs on state, local, or tribal governments, or the private sector from the bill.

Constitutional Authority: The Judiciary Committee report 107-170 finds authority under Article I, section 8 of the Constitution (Powers of Congress), but fails to reference a specific clause.

Does the Bill Create New Federal Programs or Rules: YES, creates a new federal law against all forms of human cloning.

Rep. Scott’s Amendment: Rep. Scott will offer an amendment to require the GAO to do a study “to assess the need (if any)” to amend the human cloning ban. The GAO will be required to submit the study 4 years after date of enactment of the ban. The GAO must study new medical technology concerning human cloning and somatic cell nuclear transfer, the need (if any) for somatic cell nuclear transfer “to produce medical advances,” current public attitudes toward cloning, and legal implications of research in somatic cell nuclear transfer. The GAO report in addition to listing findings and conclusions must also contain “recommendations for any legislation or administrative actions.”

Rep. Greenwood’s Substitute: Unlike H.R. 2505, the Weldon/Stupak bill, Rep. Greenwood’s substitute does NOT prohibit all human cloning. The Greenwood substitute makes it illegal under the Food and Drug Act *to implant* a cloned human embryo into a woman’s womb. **Under this substitute it would still be *legal* to clone a human, just illegal to “grow” one in a woman’s womb.** This would be the first time the federal government explicitly would allow the creation of cloned human embryos but require their destruction.

“It shall be unlawful for any person— to use or attempt to use human somatic cell nuclear transfer technology, or the product of such technology, to initiate a pregnancy or with the intent to initiate a pregnancy.” (emphasis added)

—Greenwood Substitute, Sec. 1001 (a)(1)(A)

Under the substitute, it would also be illegal to transport “the product” of somatic nuclear cell transfer, but only if the product is known to be intended for implantation in a woman’s womb [Note: it is unclear whether this wording includes only cloned embryos and/or products derived from a cloned embryo].

“It shall be unlawful for any person— ... to ship, mail, transport, or receive the product of such technology knowing that the product is intended to be used to initiate a pregnancy.” (emphasis added)

—Greenwood Substitute, Sec. 1001 (a)(1)(B)

Under Rep. Greenwood’s substitute, someone who implants the cloned human embryo will face a criminal sentence of not more than 10 years, and/or will be subject to civil fines of not more than \$1 million.

The substitute will sunset in 10 years.

The substitute says it will not apply to cloning of things other than human beings, yet it may leave a loophole in that it allows somatic cell nuclear transfer technology to clone “cells.” Since cloned human embryos begin as cells, this exemption may nullify earlier

provisions of Rep. Greenwood's substitute. [In contrast, the Weldon/Stupak bill allows cloning research that produces "cells other than human embryos."]

The substitute would preempt state laws that ban *all* human cloning, or even simply ban the creation of human embryos for research (such as a ban on creating so-called embryo farms), if the state passes the ban after the date of the enactment of Rep. Greenwood's substitute. There are 45 states that have no human cloning bans on the books. Greenwood would prohibit any of these 45 states from enacting a ban on creating human cloned embryos for research.

Rep. Greenwood's substitute also calls on the Secretary of HHS to request the Institute of Medicine (or another public or nonprofit entity if IOM refuses) to do a study of "stem cells" and report no later than 3 years after this substitute's enactment.

Note: Friday, HHS Secretary Tommy Thompson reminded Congress that the cloning issue is "unrelated" to the stem cell debate.

"Let me clarify that the anti-cloning bills currently under consideration are unrelated to the question of whether the federal government can or should support embryonic stem cell research using stem cells derived from human embryos created in medical clinics to assist infertile couples in their desire to bear children."

—Excerpt from the letter of HHS Secretary Tommy Thompson to Congressman J.C. Watts, July 27, 2001.

Administration Position:

"The Administration supports a ban on the cloning of human beings by somatic cell nuclear transfer. The Administration unequivocally is opposed to the cloning of human beings either for reproduction or for research. The moral and ethical issues posed by human cloning are profound and cannot be ignored in the quest for scientific discovery.

...

"H.R. 2505 [Rep. Weldon's bill], which prohibits human cloning by somatic cell nuclear transfer for any purpose, is consistent with the Administration's position.

"The Administration is strongly opposed to any legislation that would prohibit human cloning for reproductive purposes but permit the creation of cloned embryos for research. **Thus, the Administration would strongly oppose any substitute amendment that is similar or identical to the language of H.R. 2608 [Rep. Greenwood's bill]**, which would permit human embryos to be created and developed solely for research purposes."(emphasis and bill sponsor added)

—Excerpt from OMB Statement of Administration Policy on the Weldon-Stupak Human Cloning Prohibition Act (H.R. 2505) and the Greenwood Substitute Amendment, July 30, 2001

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