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Bill Analysis
Legislative Service Commission

S.B. 63

127th General Assembly
(As Introduced)

Sens. R. Miller, Smith

BILL SUMMARY

- Declares the General Assembly's intent regarding stem cell research.
- Establishes that it is the public policy of Ohio to permit the use of certain embryonic stem cells for research purposes.
- Prohibits and establishes a criminal penalty for purchase or sale of embryonic or cadaveric fetal tissue for research purposes.
- States that an individual receiving fertility treatment has a number of options for the disposal of human embryos remaining after the treatment.
- Provides that for the purposes of liability in tort or contract, the transfer of stem cells for research does not constitute a sale.

CONTENT AND OPERATION

General Assembly declaration

(Section 2 of the bill)

The bill states that the General Assembly finds and declares all of the following regarding research using stem cells:¹

(1) An estimated 128 million Americans suffer from the crippling economic and psychological burden of chronic, degenerative, and acute diseases, including diabetes, Parkinson's disease, cancer, and Alzheimer's disease.

¹ Stem cells are cells with the potential to develop into many different types of cells in the body. National Institutes of Health, Medline Plus, online dictionary (available at: <http://www.nlm.nih.gov/medlineplus/stemcells.html>).

(2) The costs of treatment and lost productivity of chronic, degenerative, and acute diseases in the United States constitutes hundreds of billions of dollars every year. Estimates of the economic costs of these diseases do not account for the extreme human loss and suffering associated with these conditions.

(3) Stem cell research offers immense promise for developing new medical therapies for these debilitating diseases and a critical means to explore fundamental questions of biology. Stem cell research could lead to unprecedented treatments and potential cures for diabetes, Alzheimer's disease, cancer, and other diseases.

(4) The United States has historically been a haven for open scientific inquiry and technological innovation, and this environment, coupled with the commitment of public and private resources, has made the United States the preeminent world leader in biomedicine and biotechnology.

(5) Open scientific inquiry and publicly funded research will be essential to realizing the promise of stem cell research and to maintaining the United States' worldwide leadership in biomedicine and biotechnology. Publicly funded stem cell research, conducted under established standards of open scientific exchange, peer review, and public oversight, offers the most efficient and responsible means of fulfilling the promise of stem cells to provide regenerative medical therapies.

(6) Stem cell research, including the use of embryonic stem cells for medical research, raises significant ethical and policy concerns, and, while not unique, the ethical and policy concerns associated with stem cell research must be carefully considered.

(7) Public policy on stem cell research must balance ethical and medical considerations. The policy must be based on an understanding of the science associated with stem cell research and grounded on a thorough consideration of the ethical concerns regarding this research. Public policy on stem cell research must be carefully crafted to ensure that researchers have the tools necessary to fulfill the promise of stem cell research.

Stem cell research

(R.C. 3701.86)

The bill provides that the public policy of Ohio is to permit the use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation,² for research

² A type of cloning technique. National Human Genome Research Institute, National Institutes of Health, genome.gov (available at: <http://www.genome.gov/10004765>).

purposes. The ethical and medical implications of the research are required to be given full consideration.

Current law establishes a criminal penalty to be imposed on a person who experiments upon or sells the product of human conception which is aborted. The bill excepts stem cell research from this penalty.

The bill requires the Department of Health to establish an institutional review board to review research involving the derivation and use of stem cells. The Director of Health is to adopt rules as necessary to implement the public policy stated in the bill.

Prohibition on sale of embryonic or cadaveric fetal tissue

(R.C. 2927.16)

The bill prohibits a person from knowingly purchasing or selling embryonic or cadaveric fetal tissue for research purposes. A violation is a misdemeanor of the first degree on the first offense and a felony of the fifth degree on each subsequent offense.

The bill provides that the prohibition does not prevent a person from receiving the tissue by donation, if the tissue is to be used for research purposes. Under the bill, the reasonable payment for removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation does not constitute a purchase or sale of the tissue.

Fertility treatment

(R.C. 3701.861)

Under the bill, an individual receiving fertility treatment is to have the option of choosing among the available means of disposing of any unused human embryos remaining following the fertility treatment. The means of disposable include storing the embryos, donating them to another individual, discarding them, or donating them for research.

An individual who elects to donate unused embryos remaining after fertility treatments is required to provide written consent of the donation to the person responsible for facilitating the donation.

Liability

(R.C. 2307.54)

The bill provides that for purposes of liability in tort³ or contract, procuring, furnishing, donating, processing, distributing, or using embryonic or cadaveric fetal tissue for research purposes is a service, not a sale, regardless of whether there is payment. No warranty nor strict tort liability⁴ is to be applicable to a provision of this service, except that a person providing the service does warrant to the recipient of the service that the person providing the service has exercised due care and followed professional standards of care in accordance with the Revised Code.

HISTORY

ACTION	DATE
Introduced	02-20-07

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³ A tort is a civil wrong for which a remedy may be obtained, usually in the form of damages (Garner, Bryan, ed., *Black's Law Dictionary, 7th ed.* (St. Paul: West Group, 1999), 1496.

⁴ Strict liability is liability that does not depend on actual negligence or intent to harm, but that is based on the breach of an absolute duty to make something safe (Garner, Bryan, ed., *Black's Law Dictionary, 7th ed.* (St. Paul: West Group, 1999), 926.