



**BIOETHICS
DEFENSE FUND**
Law In The Service Of Life

Human Cloning Laws: 50 State Survey

A survey of the text and scope of state laws relating to the cloning of human embryos for

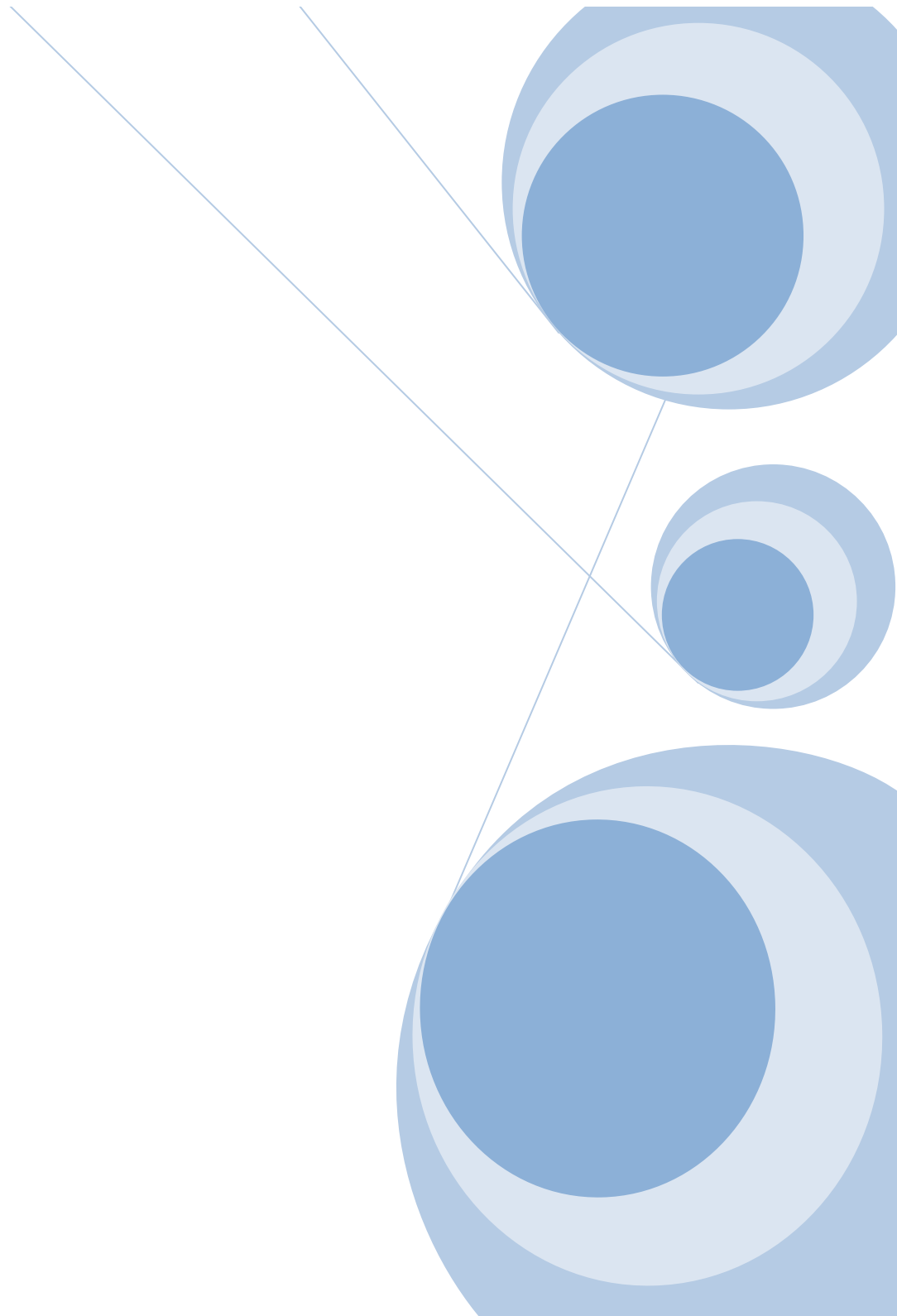
- embryonic stem cell research,
- implantation for childbirth, and
- related funding policies

Bioethics Defense Fund
Current through the 2013 legislative session

Nikolas T. Nikas
President & General Counsel

Dorinda C. Bordlee
Vice President, Senior Counsel
Bioethics Defense Fund
info@bdfund.org
504-231-7234

Special thanks for the research assistance of James Hanson.





Summary of State Laws on Human Cloning*

Current as of May 2014

8 States prohibit human cloning for any purpose. This means that the law bans the creation of cloned human embryos for both embryonic stem cell research which destroys the cloned embryo, as well as banning the creation of a cloned human embryo to implant in a uterus for childbirth): **Arizona, Arkansas, Indiana, Michigan, North Dakota, Oklahoma, South Dakota, Virginia, (and a 1973 Minnesota law seems to prohibit the destruction of a cloned human embryo for research)**

4 States expressly prohibit state funding of human cloning for any purpose: **Arizona, Indiana, Louisiana, Michigan**

10 States expressly allow “clone and kill” research. This means that the law prohibits cloned embryos to be implanted for childbirth, aka “banning reproductive cloning”, and thus the law implicitly or explicitly allows for cloned human embryos to be destroyed in research, aka “allowing therapeutic cloning”: **California, Connecticut, Illinois, Iowa, Maryland, Massachusetts, Missouri, Montana, New Jersey, Rhode Island**

5 States expressly allow state funding for embryonic stem cell research that destroys human embryos (derived both from human cloning or from *in vitro* fertilization (IVF) in fertility clinics): **California, Illinois, Missouri, Maryland, New York**

2 States expressly include “human cloning” as a practice that health professionals cannot be compelled to participate in under their healthcare rights of conscience laws: **Idaho, Louisiana**

***There is no federal law banning the practice of human cloning for any purpose. (but see Dickey Wicker on page 10)**

State	Statute	Public Link	Provisions on Human Cloning	Provisions on Funding
Alabama	N/A	N/A		
Alaska	N/A	N/A		
Arizona	SB 1307, amending Ariz. Rev. Stat. § 36-23	http://www.azleg.gov/FormatDocument.asp?inDoc=/legtext/49leg/2r/bills/sb1307h.htm	Prohibits human cloning for any purpose (research and childbirth); Prohibits creating “an in vitro human embryo by any means other than fertilization through the combining of a human egg with a human sperm.” Also prohibits any attempt to create “human-animal hybrids.” ENACTED 2010	A.R.S. 35-196.04 expressly prohibits the use of public monies for human cloning for any purpose. (http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/35/00196-04.htm&Title=35&DocType=ARS) ENACTED 2005
Arkansas	Ark. Code. Ann. § 20-16-1001 through 1004	http://law.justia.com/codes/arkansas/2010/title-20/subtitle-2/chapter-16/subchapter-10/20-16-1001	Prohibits human cloning for any purpose (research or childbirth); may not ship, transfer or receive the product of human cloning; human cloning is punishable as a Class C felony and by a fine of not less than \$250,000 or twice the amount of pecuniary gain that is received by the person or entity, whichever is greater. ENACTED 2003	State funding implicitly not allowed due to law prohibiting the practice of human cloning.
California	Cal. Health & Safety Code § 24185	http://codes.lp.fidlaw.com/cacode/HSC/1/d20/1.4	Clone and Kill. Prohibits cloning human embryos with the intent to “initiate a pregnancy that could result in the birth of a human being.” Therefore, allows cloning human embryos to be destroyed in research. Bans cloning to produce children. ENACTED 2002	In 2004, California Prop 71 amended the CA Constitution and provided \$3 billion in state funding over 10 years to stem cell research that gave priority to the destruction of IVF human embryos and cloned human embryos. http://ballotpedia.us/wiki/index.php/California_Proposition_71,_Stem_Cell_Research_(2004)
Colorado	N/A	N/A/		
Connecticut	Conn. Gen. Stat. § Sec. 19a-32d	http://www.cga.ct.gov/2009/pub/chap368a.htm - Sec19a-32d.htm	Clone and Kill. Prohibits cloning to produce children, but allows cloning for biomedical research.	Does not ban SCNT, but bans implanting human embryos created by nuclear transfer into a uterus or a device similar to a uterus, and facilitating human reproduction

				through a clinical use of human embryos created by nuclear transfer.
Delaware	N/A	N/A		
Florida	N/A	N/A		
Georgia	N/A	N/A		
Hawaii	N/A	N/A		
Idaho	Idaho Code Ann. § 18-611	http://legislature.idaho.gov/idstat/Title18/T18CH6SECT18-611.htm	No ban on human cloning. The Freedom of Conscience for Health Care Professionals statute includes “human embryo cloning” as one of the services that health care professionals cannot be required to perform.	No reference
Illinois	410 Ill. Comp. Stat. 110/40	http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2938&ChapterID=35	Clone and Kill. Prohibits cloning “that could result in the creation of a human fetus or the birth of a human being.” Allows cloning human embryos to be destroyed in research. ENACTED 2008	“Research involving the derivation and use of human embryonic stem cells, human embryonic germ cells, and human adult stem cells, including somatic cell nuclear transplantation, shall be allowed to receive public funds...”
Indiana	Ind. Code 16-34.5	http://www.in.gov/legislative/bills/2005/SE/SE0268.1.html	Prohibits human cloning for any purpose (research and childbirth) and prohibits funding of human cloning; allows for the revocation of a hospital or physician's license involved in cloning. ENACTED 2005	The state, a state educational institution, or a political subdivision of the state may not use public funds, facilities, or employees to knowingly participate in cloning or attempted cloning.
Iowa	Iowa Code § 707C	http://coolice.legis.state.ia.us/CoolICE/default.asp?category=billinfo&service=iowaCode&ga=83	CLONE AND KILL. Prohibits “human reproductive cloning,” but allows cloning human embryo to be destroyed in research. Sec. 707C.3: "Human reproductive cloning" means human asexual reproduction, using somatic cell nuclear transfer, for implantation or attempted implantation into a woman's uterus or substitute for a woman's uterus. "Human reproductive cloning" does not include somatic cell nuclear transfer performed for the purpose of creating embryonic stem cells. ENACTED 2007 (repealing a 2002 law that banned human cloning for any purpose.)	No reference.

Kansas Kentucky Louisiana	N/A	N/A		
	N/A	N/A		
	La. Rev. Stat. § 1299.35.9	http://www.legis.state.la.us/lss/lss.asp?doc=97219	Prohibits public funding of human cloning and the practice of destructive human embryo research. ENACTED 2008. Protects health care providers' right of conscience to choose not to participate in certain medical activities, including "human embryo cloning." ENACTED 2009	La. Rev. Stat. § 40:1299.36 prohibits public funding "for human somatic cell nuclear transfer, commonly known as human cloning." ENACTED 2008 http://www.legis.state.la.us/lss/lss.asp?doc=97220)
Maine	N/A	N/A		
Maryland	Md. Code Ann. Econ. Dev. §§ 10-429 through 442	http://mlis.state.md.us/2006rs/bills/sb/sb0144t.pdf	Clone and Kill. Prohibits the practice and funding of human cloning "in order to create a new human being or to allow development beyond an embryo." Therefore, allows cloning human embryos to be destroyed in research.	Establishes the "Maryland Stem Cell Research Fund." Section 10-437 prohibits anyone conducting state-funded stem cell research from implanting a cloned human embryo. Allows for funding of cloning embryos for research.
	Massachusetts	Mass. Gen. Laws ch. 111L, § 8	http://www.mass.gov/legis/laws/mgl/111l-8.htm	Clone and Kill. Prohibits cloning for childbirth, but statutorily allows cloning for research. ENACTED 2005
Michigan	Mich. Comp. Laws §§ 750.430a, 333.16274	http://www.legislature.mi.gov/%28S%28iphr3ye3fnds3o545n33rldal%29%29/mileg.aspx?page=chapterindex	Prohibits human cloning for any purpose (research and childbirth). Section 750.430a prohibits human cloning, which is defined in § 333.16274 as "the use of human somatic cell nuclear transfer technology to produce a human embryo." ENACTED 1998 A 2008 ballot initiative left MI's cloning laws in tact, but amended the MI Constitution to expressly allow research using excess "human embryos created for the purpose of fertility treatment." Text of 2008 Prop 2 is here: http://wwwb.michigan.gov/documents/sos/ED-20_11-08_Props_Poster2_251561_7.pdf	Section 333.26403 states that "A person shall not use state funds to engage in or attempt to engage in human cloning." ENACTED 1998

<p>Minnesota</p>	<p>Minn. Stat. § 145.421 through 145.422</p>	<p>https://www.revisor.mn.gov/statutes/?id=145.422</p>	<p>No express ban on cloning a human embryo, but current law seems to prohibit destructive experimentation on a cloned human embryo. Minn. Stat. § 145.422 prohibits using a living human conceptus for any type of scientific research or experimentation except to protect the life or health of the conceptus. Under § 145.421 "Human conceptus" is defined as "any human organism, conceived either in the human body or produced in an artificial environment other than the human body, from fertilization through the first 265 days thereafter." ENACTED 1973</p> <p>2011 bill would ban SCNT cloning for any purpose. SF695 – Bill was not enacted.</p>	<p>2011 bill would prohibit state or federal funding of human cloning. Governor has threatened veto.</p> <p><i>S.F. No. 760, 4th Engrossment - 87th Legislative Session (2011-2012) Posted on May 19, 2011.</i></p> <p>https://www.revisor.mn.gov/bin/bld_bill.php?bill=S0760.4.html&session=ls87</p> <p>Not enacted.</p>
<p>Mississippi Missouri</p>	<p>N/A</p> <p>Mo. Constitution Art. III, Sec. 38(d); Mo. Rev. Stat. § 1.217</p>	<p>N/A</p> <p>http://ballotpedia.us/wiki/index.php/Missouri_Stem_Cell_Limitation_Initiative_(2008)</p>	<p>Clone and Kill allowed in MO Constitution. By a slim majority of 51%, Missouri citizens approved a 2006 ballot initiative deceptively presented by the Secretary of State on the ballot summary as a "ban on human cloning." In reality, the 26-page constitutional amendment allowed the cloning of human embryos as long as those embryos were never implanted in a woman's womb, thus allowing cloning embryos for research purposes. AMENDED INTO CONSTITUTION in 2006.</p> <p>See http://www.bdfund.org/missouricloning.asp</p>	<p>No reference</p> <p>Section 5 of Amendment 2 authorizes state funding of cloning for "stem cell research." However, the pro-life majority of the Missouri legislature has blocked all attempts at appropriating state funds for any research that destroys any human embryos.</p> <p>No State Funds for Cloning for Childbirth: "No state funds shall be used for research with respect to the cloning of a human person."; but cloning defined as "replication of a human person by taking a cell with genetic material and cultivating such cell through the egg, embryo, fetal and newborn stages." ENACTED 1998. http://www.moga.mo.gov/statutes/c</p>

				000-099/0010000217.htm
Montana	Mont. Code Ann. § 50-11-102	http://data.opi.mt.gov/bills/mca/50/11/50-11-102.htm	Clone and Kill. May not “perform or attempt to perform reproductive human cloning.” “Reproductive human cloning” means human cloning intended to result in the gestation or birth of a child who is genetically identical to another conceptus, embryo, fetus, or human being, living or dead.” ENACTED 2009	No reference
Nebraska	N/A	N/A		
Nevada	N/A	N/A		
New Hampshire	N/A	N/A		
New Jersey	N.J. Rev. Stat. § 2C:11A-1; N.J. Rev. Stat. § 26:2Z-2	http://law.onecle.com/new-jersey/2c-the-new-jersey-code-of-criminal-justice/11a-1.html	Clone and Kill. Prohibits the “cloning of a human being,” defining “cloning” as the replication of a human individual by cultivating a cell with genetic material through the egg, embryo, fetal and newborn stages.” NJ has the most extreme pro-cloning statute because the above definition would allow for the cloning of a human embryo, and the subsequent implantation into a human womb where it could lawfully live until being destroyed for research purposes moments before birth. Section 26:2Z-2 states: “It is the public policy of this State that research involving the derivation and use of human embryonic stem cells, human embryonic germ cells and human adult stem cells, including somatic cell nuclear transplantation [cloning], shall be permitted in this State.” ENACTED 2003	A 2007 ballot initiative to allocate state funding to human embryonic stem cell research, including human cloning, was defeated. http://www.nytimes.com/2007/11/07/nyregion/07jersey.html
New Mexico	N/A	N/A		

New York	N.Y. Pub. Health Law § 265-a	http://stemcell.ny.gov/about_nystem_esc_board_state.html	<p>NY law is silent on human cloning itself, thus allowing clone and kill research. The Empire State Stem Cell Board was created by § 265-a. (see http://stemcell.ny.gov/index.html) New York has a state board that disburses state monies for destructive embryo research. The monies may not fund cloning-to-produce- children. NY is the first state to publically fund the dangerous process of human egg harvesting.</p> <p>ENACTED 2007</p>	<p>The Empire State Stem Cell Board cannot fund cloning for childbirth, but is allowed to fund cloning human embryos for research.</p> <p>“A special revenue account known as the Empire State Stem Cell Trust Fund was created in the State Finance Law. An initial appropriation of \$100 million in funding was provided in state fiscal year 2007-08, with the intention to provide another \$50 million each year for the subsequent 10 years.” Source: http://stemcell.ny.gov/nystem_faq.html</p>
North Carolina	N/A	N/A		
North Dakota	N.D. Cent. Code, § 12.1-39-02	http://www.legis.nd.gov/cencode/t121c39.pdf	<p>Prohibits human cloning for any purpose (childbirth and research). Defines human cloning as “human asexual reproduction, accomplished by introducing the genetic material of a human somatic cell into a fertilized or unfertilized oocyte, the nucleus of which has been or will be removed or inactivated, to produce a living organism with a human or predominantly human genetic constitution.”</p> <p>ENACTED 2003</p>	<p>State funding of human cloning implicitly prohibited due to the statute banning the practice.</p>
Ohio	N/A	N/A		
Oklahoma	Okl. Stat. tit. 63 § 1-727	http://www.oscn.net/applications/OCISWeb/DeliverDocument.asp?CitelID=456906	<p>Prohibits human cloning for any purpose (childbirth and research). Defines human cloning as “human asexual reproduction, accomplished by introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been removed or inactivated to produce a living</p>	<p>No reference</p>

			organism (at any stage of development) with a human genetic constitution.” ENACTED 2009	
Oregon	N/A	N/A		
Pennsylvania	N/A	N/A		
Rhode Island	R.I. Gen. Laws § 23-16-4.4	http://www.rilin.state.ri.us/Statutes/TITLE23/23-16.4/INDEX.HTM	CLONE AND KILL. In 2013, the state extended the sunset provision on its law prohibiting human cloning “for initiative a pregnancy.” Cloning for biomedical research is thus allowed, and cloning to produce children is banned.	No reference
South Carolina	N/A	N/A		
South Dakota	S.D. Codified Laws § 34-14-27	http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=34-14-27&Type=Statute	Prohibits human cloning for any purpose (childbirth and research). Defines human cloning as “human asexual reproduction accomplished by introducing the nuclear material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been removed or inactivated to produce a living organism, at any stage of development, with a human or predominantly human genetic constitution.”	State funding of human cloning implicitly prohibited due to the statute banning the practice.
Tennessee	N/A	N/A		
Texas	N/A	N/A		
Utah	N/A	N/A		
Vermont	N/A	N/A		
Virginia	Va. Code Ann. § 32.1-162.21 and § 32.1-162.22.	http://leg1.state.va.us/cgi-bin/legp504.exe?00+cod+TOC3201000000500002000000	Seems to prohibits human cloning for any purpose (childbirth and research). "Human cloning" means the creation of or attempt to create a <i>human being</i> by transferring the nucleus from a human cell from whatever source into an oocyte from which the nucleus has been removed.” Some question whether this statute bans cloning human embryos to be destroyed in research based on the argument that “human being” is not defined. However, the statutory construction seems to	No reference

			differentiate and prohibit both the creation of the cloned human embryo for any purpose, and it's subsequent implantation: "No person shall (i) perform human cloning or (ii) implant or attempt to implant the product of somatic cell nuclear transfer into a uterine environment so as to initiate a pregnancy"	
			ENACTED 2001	
Washington	N/A	N/A		
West Virginia	N/A	N/A		
Wisconsin	N/A	N/A		
Wyoming	N/A	N/A		

Related Resources:

United Nations Declaration on Human Cloning (2005) (recommending comprehensive ban for any purpose – both research and childbirth)

http://www.c-fam.org/docLib/20080625_Declaration_on_Human_Cloning.pdf

DICKEY-WICKER AMENDMENT (has the effect of prohibiting federal funding of human cloning for biomedical research; there are current efforts to repeal it for this reason).

The Dickey Wicker Amendment is a budget rider to the annual HHS appropriations bill. It has been passed in the current form every year since 1996. The most recent can be found in the Omnibus budget bill (Pub. L. No. 111-8): <http://thomas.loc.gov/cgi-bin/query/C?c111:./temp/~c111HrQpZt>

The language provides as follows:

SEC. 509. (a) None of the funds made available in this Act may be used for--

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term `human embryo or embryos' includes any, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.