

On behalf of **Missouri Citizens**, whose cultural values are threatened,

On behalf of **Missouri Taxpayers**, who will be forced to pay for an open-ended, ever-increasing constitutional funding entitlement for cloners,

On behalf of the **Missouri Legislature**, which will lose its properly delegated authority to oversee the use of taxpayer dollars, and

In defense of the **Missouri Constitution**, which will be amended in unforeseeable ways,

Missouri Roundtable For Life

Presents

A Word-By-Word Critique Of The So-Called “Missouri Stem Cell Research And Cures Initiative”

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Paid for by Missouri Roundtable For Life, F. Sauer, Treasurer

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NOTE: Official text in black, **commentary in red**, emphasis added unless noted

Proposed Amendment Text

(Per the Missouri Secretary of State)

Submitted October 11, 2005

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri – Sections 2, 10, 14, and 32 of Article I; Section 1 of Article II; Sections 1, 21, 22, 23, 28, 36, 39, 40, 41, and 42 of Article III; Sections 1, 14, 36(a), 37, 37(a), 39, and 52 of Article IV; Sections 5, 14, 17, 18, and 23, and subsection 17 of Section 27 of Article V; Sections 18(b), 18(c), 18(d), 18(k), 18(m), 19(a), 20, 31, 32(a), and 32(b) of Article VI; Section 9(a) of Article IX; Sections 1, 6, 11(a), 11(d), and 11(f) of Article X; and Section 3 or Article XI.

Multiple unforeseen amendments to the Missouri Constitution

An amendment to the Missouri Constitution becomes the highest law of the state. It supersedes any portion of the present Constitution as well as any law that conflicts with it, and it can only be changed by another amendment.

The length and complexity of the proposed initiative ensures that it will change the Missouri Constitution in ways unrelated to cloning and unforeseen by the voters. The Secretary of State here lists at least 45 specific sections of the Constitution that may be altered by this proposed amendment. The true extent of these changes will not be known by Missouri citizens until they are litigated in the courts. For this reason alone, the proposed amendment should be rejected.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 38(d) of Article III to read as follows:

Section 38(d). 1. This section shall be known as the “Missouri Stem Cell Research and Cures Initiative.”

A more accurate title: “The Human Embryo Cloning and Destruction Initiative”

The proponents of the initiative want to enshrine in the Missouri Constitution the right to clone and destroy human embryos for research purposes. Of course, they can’t say this, so they’re focusing on “Stem Cell Research.”

However, there are two general categories of stem cells: so-called “adult” stem cells and embryonic stem cells. Adult stem cells are found in umbilical cord blood, bone marrow, peripheral blood, fat, and many other tissues and organs and are used in many medical treatments. Research and treatments using appropriately obtained adult stem cells are completely non-controversial, so there is no need to protect them by a constitutional amendment.

Embryonic stem cells, on the other hand, are obtained by producing human embryos either by in vitro fertilization or by cloning, allowing the embryos to develop to a certain stage, and then destroying them to harvest their stem cells. Needless to say, embryonic stem cell research is controversial and there have been efforts by the Missouri legislature to address it. The initiative aims to prevent the legislature from ever regulating cloning and human embryo experimentation in the future.

Rather than forthrightly proposing a right to clone and destroy embryos, however, the proponents of the initiative are hiding behind the broad term “stem cell research,” which includes both widely supported adult stem cell research and highly controversial embryonic stem cell research. The initiative proponents are hoping to use the broad public support for adult stem cell research as cover to slip the right clone and destroy human embryos for research purposes into the Missouri Constitution.

Also, the use of “Cures” in the title is misleading. *All known medical stem cell therapies use adult stem cells.* There are no known therapies derived from embryonic stem cells—indeed, embryonic stem cells have been shown to cause tumors, called teratomas, in animals. The proponents of the initiative are implying that “cures” come from all types of stem cells, while in reality no treatments have come from embryonic stem cells. By conflating the two types of stem cells, cloning supporters are concealing the fact that no therapies have come from embryonic stem cells.

NOTE: To understand the proposed initiative, it is critical to be familiar with the definitions of various terms given Subsection 6, since these carefully crafted definitions often reverse the apparent meaning of the main body (Subsections 1-5 and 7-8) of the initiative text.

2. To ensure that Missouri patients have access to stem cell therapies and cures, that Missouri researchers can conduct stem cell research in the state, and that all such research is conducted safely and ethically, any stem cell research permitted under federal law may be conducted in Missouri, and any stem cell therapies and cures permitted under federal law may be provided to patients in Missouri, subject to the requirements of federal law and only the following additional limitations and requirements:

A constitutional right to clone and destroy human embryos

This subsection establishes the right to clone and destroy human embryos for research purposes with the following words: “*any stem cell research... may be conducted in Missouri.*” The term “stem cell” is defined in Subsection 6(13) to include “embryonic stem cells”, including those harvested from embryos created by in vitro fertilization (“in vitro fertilization blastocysts”) or by “somatic cell nuclear transfer,” which is the technical term for cloning.

Human creation by fertilization

To understand cloning, it helps to understand fertilization, in which sperm and egg unite to create a new human being. The egg is a large cell that contains a membrane-bound organelle termed the nucleus that contains 23 DNA chromosomes. The sperm is a much smaller cell that also contains 23 DNA chromosomes. The union of sperm and egg brings the complete set of 46 human DNA chromosomes into the specialized environment of the egg interior and produces a new single-celled human being.

The new human being then undergoes a developmental program of cell division and differentiation that culminates in the adult stage of human life. Cells in the adult, all of which are descended from the first cell produced by fertilization, contain the copies of same 46 DNA chromosomes that were in that first cell.

Human creation by cloning

Somatic cell nuclear transfer, or cloning, is an artificial way to deliver the 46 DNA chromosomes into the egg to create a human being. In somatic cell nuclear transfer, the nucleus of the egg, with its 23 DNA chromosomes, is removed to create an egg without any nucleus or DNA chromosomes.

Then, the nucleus of a typical human body cell, for example a skin cell, which contains the full complement of 46 DNA chromosomes, is transferred into the egg. The insertion of the body cell nucleus into the egg produces a new human being who has all 46 of his or her chromosomes from a single donor, rather than 23 from the mother and 23 from the father as is the case in fertilization. The new embryo is thus a *genetic clone* of the donor who provided the body cell nucleus.

The human embryo produced by cloning develops just as does a human embryo produced by fertilization. Given the proper environment and nutrition, he or she will grow into an adult human being. We know this because *the identical somatic cell nuclear transfer procedure has been used to produce many cloned adult animals, including Dolly the sheep, cattle, goats, cats, and others.*

By specifically including stem cells derived from somatic cell nuclear transfer and from the destruction of in vitro fertilization embryos in the definition of “stem cell,” *this section of the initiative establishes the constitutional right to clone and destroy human embryos* for research purposes.

This right is *essentially unlimited*. NO regulation of cloning or embryo destruction by ANY legislative body or other governmental body will be allowed, since the right to clone is subject “ONLY” to the “following additional limitations and requirements” (i.e. Subdivisions 2(1)-2(7) following).

- (1) No person may clone or attempt to clone a human being.

A false definition of cloning

Despite the plain English meaning of the words, this sentence does NOT in any way limit the right to clone granted in Subsection 2 above. This is because “clone or attempt to clone” is defined in Subdivision 6(2) to mean “to *implant* in a uterus... anything other than the product of fertilization of an egg of a human female by a sperm of a human male.”

This is a **FALSE DEFINITION OF CLONING**.

To clone means “to create genetic copy of.” This is accomplished by somatic cell nuclear transfer as just described. Cloning has *nothing to do with implantation* in a uterus. The cloning of a human being occurs BEFORE implantation, and the cloned human being is a cloned human being whether he or she is implanted or not.

The false definition of cloning here is intentionally contrived to exclude somatic cell nuclear transfer from the definition of cloning, when in fact somatic cell nuclear transfer is the technical term for cloning.

The true definition of cloning, that is somatic cell nuclear transfer, is universally accepted by leading medical and scientific organizations. The National Academies of Science, the American Association for the Advancement of Science, the International Society for Stem Cell Research, and the American Medical Association recognize somatic cell nuclear transfer as cloning. As recently as June 7,

2006, The Wall Street Journal published an article “Harvard Joins New U.S. Push In Stem Cells.” The article reported:

Researchers at Harvard University said they are beginning experiments to *clone human embryos for making stem cells...*

Harvard’s effort mirrors that of other U.S.-based researchers who have also announced recent cloning initiatives in the wake of a major scientific scandal in South Korea where researchers falsely claimed they had *created stem cells from cloned embryos...*

The Harvard experiments aim to take cells from patients with diseases... to *create genetically identical embryos...*

Harvard’s announcement comes after... closely held Advanced Cell Technology... said in May they would also be resuming effort to *clone human embryos for research purposes...*

Scientists in the United Kingdom and Sweden are also working to *create stem cells from cloned embryos...*

In the type of research planned at Harvard University, *the embryos created via cloning* would be destroyed at an early stage and their stem cells would be extracted...

It appears that Harvard University and other major scientific institutions recognize and confess to the universally used scientific definition of what the process of cloning is. It has *nothing to do* with implantation.

Why have the proponents of this initiative concocted a false definition of cloning? *Because it makes an apparent ban on cloning no ban at all.* Instead, it allows researchers to clone, manipulate, and destroy human embryos at will.

Ambiguous language threatens to undermine abortion statutes

The definition of cloning also uses dangerously ambiguous language to refer to the unborn: “‘Clone or attempt to clone a human being’ means to implant in a uterus or attempt to implant in a uterus anything other than *the product of fertilization* of an egg of a human female by a sperm of a human male for the purpose of *initiating a pregnancy that could result in the creation of a human fetus, or the birth of a human being.*”

This language differs from and would supersede the clear intention of the Missouri legislature set out in Section 188.010 and the medically accurate definitions set out in Section 188.015 of the Missouri Revised Statutes, Regulation of Abortions, which read as follows:

188.010. It is the intention of the general assembly of the state of Missouri to grant the right to life to *all humans, born and unborn.*

188.015 (3) “Conception,” the fertilization of the ovum of a female by the sperm of a male.

188.015 (6) “Unborn child,” *the offspring of human beings from the moment of conception until birth and at every stage of its biological development*, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus.

The Missouri statutes clearly recognize that human beings exist from the moment of conception. On the other hand, the ambiguous language of the initiative suggests the human embryo is an object (“the product of fertilization” rather than an “unborn child”) and that human beings only exist after birth.

The very possibility that this initiative could amend, alter, or abolish the protections granted to the unborn by the Missouri abortion statutes unbeknownst to the citizens of Missouri is an outrageous abuse of the will of the citizens as expressed over long periods of time by the legitimate processes of legislative government. This ambiguity alone is reason enough for the citizens of Missouri to reject this initiative.

(2) No human blastocyst may be produced by fertilization solely for the purpose of stem cell research.

A constitutional right to create human embryos for research in fertilization clinics

The critical phrase here is “solely for the purpose of stem cell research,” which according to Subsection 6(11) means “producing human blastocysts using in vitro fertilization exclusively for stem cell research, but does *not* include producing any number of human blastocysts for the purpose of treating human infertility.”

This language gives researchers an opening to obtain as many fresh human embryos as they want from in vitro fertilization clinics. Such clinics are specifically allowed to create “any number of human blastocysts.” Even if these embryos are created “for the purpose of treating human infertility,” they will not all be implanted in a uterus. Those that are not implanted will be handed over to researchers to do as they please—indeed Subsection 6(13) specifically lists embryonic stem cells “derived from in vitro fertilization blastocysts” as included in the definition of stem cells. *This language creates a perverse incentive for in vitro fertilization clinics to create even more human embryos than usual so they can be manipulated and destroyed in laboratories.*

(3) No stem cells may be taken from a human blastocyst more than fourteen days after cell division begins; provided, however, that time during which a blastocyst is frozen does not count against the fourteen-day limit.

A constitutional right to abort unborn children to harvest their stem cells

Subdivision 6(1) defines “blastocyst,” which is an early embryo, as an entity that “has not been implanted in a uterus.” In other words, once a human embryo has been implanted in a uterus—and *there is no restriction on implanting an embryo from in vitro fertilization*—he or she is no longer a blastocyst and the prohibition against harvesting his or her stem cells laid out in this subdivision no longer applies.

Can stem cells be harvested from an unborn child once he or she is implanted in the uterus? YES. The initiative states that “*any* stem cell research... may be conducted in Missouri... subject to... *only* the following additional limitations and requirements,” that is Subdivisions 2(1)-2(7). Since these subdivisions do not prohibit harvesting of stem cells from unborn children in the womb, the initiative clearly grants the right to do so.

Under this initiative, can researchers obtain embryos from in vitro fertilization, implant them in a uterus with the intention of aborting them later, allow the babies to develop in the womb until they produce a desired type of stem cells, and then abort them to harvest their stem cells? YES. This is not just a theoretical possibility. Embryonic stem cells often form tumors when taken out of the context of the whole embryo. Researchers may be tempted to circumvent this difficulty by allowing embryos to develop further in a womb so they can abort them to harvest later stage stem cells.

This initiative will abolish portions of Section 188.036 of the Missouri Revised Statutes, Regulation of Abortions, which prohibits abortion with intention of using the unborn child's organs or tissues for "medical transplantation."

In place of these present regulations, *the initiative will create a constitutional right to harvest stem cells from unborn children in the womb.* This right, as an amendment to the constitution, will not be able to be limited by the legislature in any way whatsoever.

(4) No person may, for valuable consideration, purchase or sell human blastocysts or eggs for stem cell research or stem cell therapies and cures.

A constitutional right to pay women for their eggs

This subdivision contains yet another example of the apparent plain meaning of words being reversed by the definition of those words buried later in the initiative. While the language apparently bans paying "valuable consideration" for eggs for cloning, the definition of "valuable consideration" has so many exceptions that the language actually *enshrines the right of cloners to pay women for their eggs.*

Subsection 6(17) states that "'Valuable consideration'... *does not include reimbursement* for reasonable costs incurred in connection with the removal, processing, disposal, preservation, quality control, storage, transfer, or donation of human eggs, sperm, or blastocysts, including lost wages of the donor... [and] also *does not include the consideration paid to a donor of human eggs or sperm by a fertilization clinic or sperm bank.*"

In other words, fertilization clinics can pay women whatever they want for human eggs and then the cloners can reimburse the clinics to obtain the eggs. The initiative thus specifically allows cloners to outsource payment of women for their eggs to fertilization clinics.

Dangers of egg harvesting

Egg donation is dangerous to women's health. A significant number of egg donors develop ovarian hyperstimulation syndrome. Side effects include "nausea in mild cases and liver and kidney damage" leading to hospitalization in severe cases. A South Korean investigation of the cloning scandal in that nation found that 19% of egg donors at one hospital suffered from this syndrome (Science 311:754, 2006).

The health risks of egg donation virtually ensure that women will have to be paid to induce them to donate. In Massachusetts, where payment of eggs for cloning is illegal, the biotech company Advanced Cell Technology placed "over 100 ads" and only located "two or three" potential donors (The Wall Street Journal, 6/7/06). Payment for egg donation as enshrined in this initiative threatens to pressure poor or vulnerable young women into taking serious health risks to satisfy the cloners' need for eggs.

Cloning requires too many eggs to yield “cures”

The cloners need fresh eggs, and lots of them. In their failed attempts to clone a human being, cloners in South Korea used at least 2221 eggs from 119 women, at least 66 of whom were compensated (Science 311:754, 2006).

The enormous numbers of eggs required for cloning gives lie to the proponents’ claim that this initiative is about “cures.” 2221 eggs from 119 women failed to yield a single human clone. Given that multiple clones will be required to successfully obtain embryonic stem cell lines, the number of eggs required to treat a patients with embryonic stem cells will be impossibly high. Using an extremely conservative assumption of a requirement of 100 eggs from 10 women to treat a single patient, treating 10 million patients with embryonic stem cells would require *1 billion eggs* from *100 million women*. Clearly, cloning is not a practical source of “cures.” Rather, cloning is about research. The cloners want to be free to do whatever experiments they want, and they are using the false and demonstratively impractical promise of “cures” to enshrine this immunity in the Missouri Constitution.

(5) Human blastocysts and eggs obtained for stem cell research or stem cell therapies and cures must have been donated with voluntary and informed consent, documented in writing.

(6) Human embryonic stem cell research may be conducted only by persons that, within 180 days of the effective date of this section or otherwise prior to commencement of such research, whichever is later, have

(a) provided oversight responsibility and approval authority for such research to an embryonic stem cell research oversight committee whose membership includes representatives of the public and medical and scientific experts;

(b) adopted ethical standards for such research that comply with the requirements of this section; and

(c) obtained a determination from an Institutional Review Board that the research complies with all applicable federal statutes and regulations that the Institutional Review Board is responsible for administering.

Ethical window dressing

Subdivisions (6)(a) – (6)(c) provide no effective check on the cloners. The cloning institutions themselves will choose the members of the “embryonic stem cell research oversight committee[s].” The adoption of “ethical standards... that comply with the requirements of this section” will not hinder the cloners in any way, since we have seen that the limitations on cloning “in this section” (i.e in this initiative) are essentially non-existent.

(7) All stem cell research and all stem cell therapies and cures must be conducted and provided in accordance with state and local laws of general applicability, including but not limited to laws concerning scientific and medical practices and patient safety and privacy, to the extent that any such laws do not (i) prevent, restrict, obstruct, or discourage any stem cell research or stem cell therapies and cures that are permitted by the provisions of this section other than this subdivision (7) to be conducted or provided, or (ii) create disincentives for any person to engage in or otherwise associate with such research or therapies and cures.

All government actions that could discourage cloning and embryo destruction are unconstitutional

This section frees the cloners from any legislative, governmental or other regulation or oversight whatsoever. “All stem cell research... must be conducted... in accordance with... laws of general applicability,” BUT ONLY “to the extent that any *such laws do not (i) prevent, restrict, obstruct, or discourage any stem cell research... or (ii) create disincentives* for any person to engage in or otherwise associate with such research.”

This is *astoundingly* broad language. Any law that in any way “discourage[s]” cloning or creates “disincentives” to stem cell research including cloning will be unconstitutional. Since almost any law could be construed to be discouraging or to create disincentives, the cloners will be totally free to pursue their deadly science without any regulation or oversight whatsoever.

3. Any person who knowingly and willfully violates in this state subdivision (1) of subsection 2 of this section commits a crime and shall be punished by imprisonment for a period of up to fifteen years or by the imposition of a fine of up to two hundred fifty thousand dollars, or by both. Any person who knowingly and willfully violates in this state subdivisions (2) or (3) of subsection 2 of this section commits a crime and shall be punished by imprisonment for a period of up to ten years or by the imposition of a fine of up to one hundred thousand dollars, or by both. A civil action may be brought against any person who knowingly and willfully violates in this state any of subdivisions (1) through (6) of subsection 2 of this section, and the state in such action shall be entitled to a judgment recovering a civil penalty of up to fifty thousand dollars per violation, requiring disgorgement of any financial profit derived from such violation, and/or enjoining any further such violation. The attorney general shall have the exclusive right to bring a civil action for such violation. Venue for such action shall be the county in which the alleged violation occurred.

Loopholes neutralize penalties

Section	Activity	Max Fine	Max Prison
2(1)	Cloning and implanting a human being	\$250,000	15 yrs
Loophole	Cloning and destroying a human being	constitutionally protected	
2(2)	Producing a human blastocyst solely for research	\$100,000	10 yrs
Loophole	Producing extra human blastocysts in fertilization clinics for research	constitutionally protected	
2(3)	Harvesting stem cells from human blastocyst after 14 days	\$100,000	10 yrs
Loophole	Implanting a human blastocyst from in vitro fertilization, allowing him or her to develop to any stage, and aborting him or her to harvest stem cells	constitutionally protected	
2(4)	Paying women for their eggs directly	no criminal penalty, ONLY attorney general can bring \$50,000 max civil action	
Loophole	Paying women for their eggs through a fertilization clinic	constitutionally protected	

This table demonstrates that any seemingly harsh penalties are rendered moot by overly narrow definitions of offenses and lack of authority to prosecute them. In the case of civil penalties, ONLY the attorney general—not exploited women—can initiate an action, and damages are capped at \$50,000. What we have here is an *apparent* burden of punishment. Given the size of the loopholes, there will be no crimes to punish.

4. Each institution, hospital, other entity, or other person conducting human embryonic stem cell research in the state shall (i) prepare an annual report stating the nature of the human embryonic stem cells used in, and the purpose of, the research conducted during the prior calendar year, and certifying compliance with subdivision (6) of subsection 2 of this section; and (ii) no later than June 30 of the subsequent year, make such report available to the public and inform the Secretary of State how the public may obtain copies of or otherwise gain access to the report. The report shall not contain private or confidential medical, scientific, or other information. Individuals conducting research at an institution, hospital, or other entity that prepares and makes available a report pursuant to this subsection 4 concerning such research are not required to prepare and make available a separate report concerning that same research. A civil action may be brought against any institution, hospital, other entity, or other person that fails to prepare or make available the report or inform the Secretary of State how the public may obtain copies of or otherwise gain access to the report, and the state in such action shall be entitled as its sole remedy to an affirmative injunction requiring such institution, hospital, other entity, or other person to prepare and make available the report or inform the Secretary of State how the public may obtain or otherwise gain access to the report. The attorney general shall have the exclusive right to bring a civil action for such violation.

No meaningful disclosure requirements

You need only to go to Subsection 6(10) to see what is excluded by “private or confidential” information:

“Private or confidential medical, scientific, or other information” means any private or confidential patient, medical, or personnel records or matters, intellectual property or work product, whether patentable or not and including but not limited to any scientific or technological innovations in which an entity or person involved in the research has a proprietary interest, prepublication scientific working papers, research, or data, and any other matter excepted from disclosure under Chapter 610, RSMo, as amended from time to time.”

These exclusions effectively subvert the requirement for an annual report because any relevant information can be withheld as “private and confidential.”

This is a continuation of the pattern of language used throughout the document, where the obvious meaning of the words upon which a reasonable person would rely is inverted elsewhere in the document to mean the exact opposite.

And what is the penalty for not reporting or not making the report available to the public? Only the attorney general can institute a civil action whose only relief would be an “affirmative injunction” without financial penalties.

5. To ensure that no governmental body or official arbitrarily restricts funds designated for purposes other than stem cell research or stem cell therapies and cures as a means of inhibiting lawful stem cell research or stem cell therapies and cures, no state or local governmental body or official shall

eliminate, reduce, deny, or withhold any public funds provided or eligible to be provided to a person that (i) lawfully conducts stem cell research or provides stem cell therapies and cures, allows for such research or therapies and cures to be conducted or provided on its premises, or is otherwise associated with such research or therapies and cures, but (ii) receives or is eligible to receive such public funds for purposes other than such stem cell-related activities, on account of, or otherwise for the purpose of creating disincentives for any person to engage in or otherwise associate with, or preventing, restricting, obstructing, or discouraging, such stem cell-related activities.

Transfer of funding authority from legislature to courts for matters unrelated to cloning

Subsection 5 states that “no state or local governmental body or official shall eliminate, reduce, deny, or withhold any public funds [designated for non-stem-cell-related research and activities]... *for the purpose of creating disincentives... or discouraging... stem cell-related activities.*”

So who will decide what these words mean: “for the purpose of creating disincentives... or discouraging... stem-cell related activities”? It will be the Missouri courts. The cloners will have thereby hijacked the fiscal and budgetary powers of the elected representatives of Missouri to oversee the funding of research institutions in all matters NOT EVEN RELATED to stem cell research and cloning.

6. As used in this section, the following terms have the following meanings:

The terms defined in Subdivisions 6(1)-6(17) are discussed following the specific subsections in which they appear.

(1) “Blastocyst” means a small mass of cells that results from cell division, caused either by fertilization or somatic cell nuclear transfer, that has not been implanted in a uterus.

See page 7.

(2) “Clone or attempt to clone a human being” means to implant in a uterus or attempt to implant in a uterus anything other than the product of fertilization of an egg of a human female by a sperm of a human male for the purpose of initiating a pregnancy that could result in the creation of a human fetus, or the birth of a human being.

See page 5.

(3) “Donated” means donated for use in connection either with scientific or medical research or with medical treatment.

(4) “Fertilization” means the process whereby an egg of a human female and the sperm of a human male form a zygote (i.e., fertilized egg).

(5) “Human embryonic stem cell research,” also referred to as “early stem cell research,” means any scientific or medical research involving human stem cells derived from in vitro fertilization blastocysts or from somatic cell nuclear transfer. For purposes of this section, human embryonic stem cell research does not include stem cell clinical trials.

(6) “In vitro fertilization” means fertilization of an egg with a sperm outside the body.

(7) “Institutional Review Board” means a specially constituted review board established and operating in accordance with federal law as set forth in 42 U.S.C. 289, 45 C.F.R. Part 46, and any other applicable federal statutes and regulations, as amended from time to time.

(8) “Permitted under federal law” means, as it relates to stem cell research and stem cell therapies and cures, any such research, therapies, and cures that are not prohibited under federal law from being conducted or provided, regardless of whether federal funds are made available for such activities.

(9) “Person” means any natural person, corporation, association, partnership, public or private institution, or other legal entity.

(10) “Private or confidential medical, scientific, or other information” means any private or confidential patient, medical, or personnel records or matters, intellectual property or work product, whether patentable or not and including but not limited to any scientific or technological innovations in which an entity or person involved in the research has a proprietary interest, prepublication scientific working papers, research, or data, and any other matter excepted from disclosure under Chapter 610, RSMo, as amended from time to time.

See page 11.

(11) “Solely for the purpose of stem cell research” means producing human blastocysts using in vitro fertilization exclusively for stem cell research, but does not include producing any number of human blastocysts for the purpose of treating human infertility.

See page 7.

(12) “Sperm” means mature spermatozoa or precursor cells such as spermatids and spermatocytes.

(13) “Stem cell” means a cell that can divide multiple times and give rise to specialized cells in the body, and includes but is not limited to the stem cells generally referred to as (i) adult stem cells that are found in some body tissues (including but not limited to adult stem cells derived from adult body tissues and from discarded umbilical cords and placentas), and (ii) embryonic stem cells (including but not limited to stem cells derived from in vitro fertilization blastocysts and from cell reprogramming techniques such as somatic cell nuclear transfer).

See page 4.

(14) “Stem cell clinical trials” means federally regulated clinical trials involving stem cells and human subjects designed to develop, or assess or test the efficacy or safety of, medical treatments.

(15) “Stem cell research” means any scientific or medical research involving stem cells. For purposes of this section, stem cell research does not include stem cell clinical trials.

(16) “Stem cell therapies and cures” means any medical treatment that involves or otherwise derives from the use of stem cells, and that is used to treat or cure any disease or injury. For purposes of this section, stem cell therapies and cures does include stem cell clinical trials.

(17) “Valuable consideration” means financial gain or advantage, but does not include

reimbursement for reasonable costs incurred in connection with the removal, processing, disposal, preservation, quality control, storage, transfer, or donation of human eggs, sperm, or blastocysts, including lost wages of the donor. Valuable consideration also does not include the consideration paid to a donor of human eggs or sperm by a fertilization clinic or sperm bank, as well as any other consideration expressly allowed by federal law.

See page 8.

7. The provisions of this section and of all state and local laws, regulations, rules, charters, ordinances, and other governmental actions shall be construed in favor of the conduct of stem cell research and the provision of stem cell therapies and cures. No state or local law, regulation, rule, charter, ordinance, or other governmental action shall (i) prevent, restrict, obstruct, or discourage any stem cell research or stem cell therapies and cures that are permitted by this section to be conducted or provided, or (ii) create disincentives for any person to engage in or otherwise associate with such research or therapies and cures.

All laws construed in favor of cloning; any discouragement of cloning is unconstitutional

Subsection 7 *makes the cloning and destruction of human embryos the highest law of the state*, superseding every other law and right in the Missouri Constitution and Statutes, and *forces the taxpayers to fund cloning without any control or oversight*.

Note the astoundingly broad language of this subsection:

“[A]ll state and local laws, regulations, rules, charters, ordinances, and other governmental actions shall be construed in favor of the conduct of stem cell research... No state or local law, regulation, rule, charter, ordinance, or other governmental action shall (i) prevent, restrict, obstruct, or discourage any stem cell research... or (ii) create disincentives for any person to engage in or otherwise associate with such research.”

In other words, NO governmental action can discourage stem cell research, *including cloning*, in ANY way, *regardless of the intent* of the governmental action even if the intent has nothing to do with cloning.

Any law that could be construed to discourage cloning, no matter how remotely, will be unconstitutional. This is a breathtaking assertion of immunity for cloners.

A perpetual entitlement to ever-increasing taxpayer funding of cloning

This language also threatens to create a *perpetual taxpayer funding entitlement for cloners*. It can be construed (1) to force Missouri taxpayers to *directly fund cloning* and embryo destruction with *absolutely no strings attached* and (2) to create a constitutional requirement to *increase taxpayer funding of cloning institutions in perpetuity* with no possibility of redress by the legislature.

For example, if Missouri ever decides to fund any biomedical research, the taxpayers will thereby be required to pay for cloning, since the funding of some biomedical research without the funding of cloning will be construed as creating a disincentive to clone, regardless of the intent of the legislature, and therefore will be unconstitutional.

No taxpayer funding of cloning or embryo experimentation could ever be reduced, since any reduction of funding would be an unconstitutional disincentive to clone. Even if cloning research yields no results, funding cannot be cut. The result of the initiative will be *to require the taxpayers to spend ever-increasing dollars to directly fund the deadly science of cloning.*

Nor could the taxpayers ever reduce the funding of *any institution* that clones human beings, *even if the funding has nothing to do with cloning and regardless of the reason for the reduction.* Any reduction in funding to a cloning institution, public or private, could be construed as an unconstitutional discouragement of cloning.

The initiative threatens to be an automatic one-way ratchet upward, requiring Missouri taxpayers to provide ever-increasing amounts of money to private institutions with multi-billion dollar endowments, without any legislative control whatsoever. Who in Missouri wants to forever surrender legislative authority over their tax dollars in this way?

8. The provisions of this section are self-executing. All of the provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

Summary

So in the careful parsing of this cloning initiative, what do we find? Its proponents, who will become its beneficiaries, will have completely insulated themselves and their illicit cloning practices in an alternative legal reality where:

- They clone human embryos;
- They kill human embryos to harvest their stem cells;
- They can implant an embryo from in vitro fertilization and abort him or her at any stage of development to harvest stem cells;
- Unlimited numbers of embryos can be obtained from fertilization clinics to manipulate in the lab;
- Women will be paid to donate their eggs for experimentation at the risk of their own health;
- All Missouri laws, statues, and regulations must be construed in favor of cloning and cannot discourage cloning or create disincentives to cloning in any way;
- They have a constitutional entitlement to taxpayer funding, which can never decrease and must always increase because any decrease will be considered an unconstitutional disincentive to clone;
- Any restrictive action by the legislature will be resolved in the court system where all laws must be construed in favor of cloning;
- They will be free from any meaningful oversight, control, regulation, deterring penalties, or judicial review;

- Private institutions with endowments measured in billions of dollars will force Missouri taxpayers to pay for the cloning and destruction of human embryos;
- The prospect for “cures” will have been absurdly hyped, given among other things the vast numbers of eggs required and proclivity of embryonic stem cells to cause tumors.

This cloning initiative is perhaps the boldest attempt ever to hijack the legitimate processes, procedures, and functions of representative government in Missouri. Its basic mechanism is a language structure that is designed to defeat the casual reader by turning reasonable inferences about the text on their heads in other subsections.

It completely abandons the implied obligations of full, clear and unambiguous disclosure where parties are trying to negotiate a legal agreement, in this case a constitutional amendment. In every material feature, the proponents of the initiative have tried to conceal what they really want.

To present the citizens of Missouri with a false definition of cloning—i.e. to clone means to implant—that departs from all recognized science is completely misleading. Cloning has nothing to do with implantation.

In the end, a very few people with enormous resources have concocted this scheme because they could never achieve their goals in an open, honest, straightforward discussion. They are attempting to *buy a constitutional amendment* whose provisions are completely detrimental to the citizens of Missouri, who have expressed their respect for human beings and human life through the legitimate processes of legislative government over a long period of time.

**The proponents know that
if they call their work
by its true name—CLONING....
The citizens of Missouri will reject it.**