

# House Bill 2801

Sponsored by Representatives GALIZIO, GREENLICK; Representatives BARKER, BARNHART, BERGER, BOONE, BUCKLEY, CANNON, CLEM, COWAN, D EDWARDS, GELSER, HOLVEY, HUNT, JENSON, MERKLEY, NOLAN, READ, ROBLAN, ROSENBAUM, SCHAUFLEER, SHIELDS, TOMEI, WITT, Senator BATES

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Human Stem Cell Research Committee in Department of Human Services. Requires committee to develop guidelines for research involving derivation or use of human embryonic stem cells. Instructs committee to report guidelines developed to Legislative Assembly, Governor and Oregon Health and Science University.

Establishes Human Stem Cell Research Grant Fund. Authorizes committee to seek private and public contributions for purpose of funding research grants from fund. Continuously appropriates moneys in fund to committee for purposes of Act.

Requires health care provider delivering fertility services to provide information to patient about stem cell research and obtain written informed consent of person who elects to donate blastocyst after fertility treatment. Imposes penalties for failure to obtain written informed consent from donor prior to donation and use of human egg or sperm cell for research.

## A BILL FOR AN ACT

1 Relating to stem cell research; and appropriating money.

2  
3 Whereas an estimated 128 million Americans suffer from chronic, degenerative and acute dis-  
4 eases, including diabetes, Alzheimer's disease, cancer, Huntington's disease, Parkinson's disease,  
5 heart disease and spinal cord injury; and

6 Whereas the crippling economic and psychological burdens of such diseases result in billions of  
7 dollars every year in costs of treatment and lost productivity as well as extreme human loss and  
8 emotional suffering; and

9 Whereas stem cell research offers immense promise for developing new medical therapies for  
10 these debilitating diseases and a critical means to explore fundamental questions of biology; and

11 Whereas stem cell research could lead to unprecedented treatments and potential cures for  
12 diabetes, Alzheimer's disease, cancer, Huntington's disease, Parkinson's disease, heart disease, spinal  
13 cord injury and other diseases; and

14 Whereas Oregon is home to a large medical research institution and an expanding biomedical  
15 research industry; and

16 Whereas these organizations are committed to improving the lives of Americans suffering from  
17 chronic, degenerative and acute diseases; and

18 Whereas encouraging stem cell research is essential to realizing the promise of stem cell re-  
19 search and will promote advances in other areas of biomedical research; and

20 Whereas several states have supported policies and institutions in partnership with the  
21 biomedical research industry to promote and advance embryonic stem cell research; and

22 Whereas Oregon must demonstrate a similar commitment to these initiatives in order to reaffirm  
23 itself as a leader in this area of biomedical research; and

24 Whereas stem cell research, including the use of embryonic stem cells for medical research,  
25 raises significant ethical concerns that must be balanced with medical considerations; and

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1       Whereas while therapeutic cloning stem cell research holds enormous potential for treating or  
2 even curing some diseases, the reproductive cloning of human beings is morally and ethically unac-  
3 ceptable; and

4       Whereas the reproductive cloning of human beings poses grave health risks to any child who  
5 may be produced in this manner; and

6       Whereas any attempt to clone a human being is in direct conflict with the policies of this state;  
7 now, therefore,

8 **Be It Enacted by the People of the State of Oregon:**

9       **SECTION 1.** As used in this section and sections 2, 3, 4, 5, 7 and 8 of this 2007 Act:

10       (1) **“Blastocyst”** means a preimplantation embryo consisting of approximately 150 cells  
11 that are organized into an inner and outer cell layer surrounding a fluid-filled cavity. The  
12 inner layer, from which embryonic stem cells are derived, consists of undifferentiated cells  
13 that have the potential to become any type of cell in the human body.

14       (2) **“Human somatic cell”** means a diploid cell obtained or derived from a living or de-  
15 ceased human at any stage of development.

16       (3) **“Oocyte”** means an unfertilized human ovum.

17       (4) **“Somatic cell nuclear transfer”** or **“therapeutic cloning”** means a technique in which  
18 the nucleus of an oocyte is replaced with the nucleus of a donated human somatic cell and  
19 stimulated to divide until it reaches the blastocyst stage.

20       **SECTION 2.** (1) The Human Stem Cell Research Committee is created in the Department  
21 of Human Services. The committee shall consist of 13 members appointed by the Governor.

22       (2) The term of office of each member is four years, but a member serves at the pleasure  
23 of the Governor. Before the expiration of the term of a member, the Governor shall appoint  
24 a successor, whose term begins upon the expiration of the term of the current member. A  
25 member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall  
26 make an appointment to become immediately effective for the unexpired term.

27       (3) The Governor may consider persons recommended for appointment by the Oregon  
28 Health and Science University and the biomedical research community. The committee shall  
29 include the following members:

30       (a) Seven scientists with experience in biomedical research in the fields of cell differen-  
31 tiation, nuclear reprogramming, tissue formation and regeneration, stem cell biology, devel-  
32 opmental biology or regenerative medicine or related fields;

33       (b) Two medical ethicists;

34       (c) Two persons with backgrounds in legal issues related to human embryonic stem cell  
35 research, in vitro fertilization or family law, as it applies to the donation of blastocysts and  
36 oocytes; and

37       (d) Two members of the public.

38       (4) The committee shall select one of its members as chairperson and another as vice  
39 chairperson, for such terms and with duties and powers necessary for the performance of  
40 the functions of such offices as the committee determines.

41       (5) A majority of the members of the committee constitutes a quorum for the transaction  
42 of business.

43       (6) The committee shall meet at least once every three months at a place, day and hour  
44 determined by the chairperson of the committee. The committee may also meet at other  
45 times and places specified by the call of the chairperson or of a majority of the members of

1 the committee.

2 (7) A member of the committee is entitled to compensation and expenses as provided in  
3 ORS 292.495.

4 (8) In accordance with applicable provisions of ORS chapter 183, the committee may  
5 adopt rules necessary for carrying out the provisions of sections 3 and 4 of this 2007 Act.

6 (9) The Department of Human Services shall provide administrative support to the com-  
7 mittee.

8 **SECTION 3.** (1) The Human Stem Cell Research Committee shall develop guidelines for  
9 research involving the derivation or use of human embryonic stem cells in Oregon by Janu-  
10 ary 1, 2008. The guidelines shall address the balance between the state policy of promoting  
11 research involving the derivation of human embryonic stem cells, by any method, including  
12 somatic cell nuclear transfer, and the ethical considerations that arise with such research.  
13 After adoption of the initial guidelines, the committee may revise the guidelines or issue  
14 advisory opinions, as necessary, to account for developments in research and medicine as  
15 they may affect the research and ethical considerations associated with the use of human  
16 embryonic stem cells.

17 (2) In developing the guidelines, the committee may consider other applicable guidelines  
18 developed or used in the United States and in other countries, including the guidelines for  
19 research using human pluripotent stem cells developed by the National Institutes of Health.

20 (3) The committee shall report the guidelines developed to the Governor, to the Legisla-  
21 tive Assembly in the manner provided for in ORS 192.245 and to the Oregon Health and Sci-  
22 ence University.

23 **SECTION 4.** (1) The Human Stem Cell Research Committee may solicit, receive and re-  
24 view applications from public and private agencies, organizations and research institutions  
25 for grants from the Human Stem Cell Research Grant Fund created under section 5 of this  
26 2007 Act to conduct research programs that focus on the development of the treatment of  
27 debilitating diseases and spinal cord injuries.

28 (2) After review of a grant application, the committee shall grant approval of the appli-  
29 cation and disburse moneys from the Human Stem Cell Research Grant Fund if the applica-  
30 tion meets the criteria established by the committee and if money exists in the fund.

31 (3) The committee may solicit contributions to the fund from public and private sources.

32 (4) The committee shall provide the Governor and the Legislative Assembly with a  
33 biennial report no later than January 31 of each odd-numbered year that summarizes the  
34 status of funds granted for stem cell research and the progress of the committee in en-  
35 couraging stem cell research.

36 **SECTION 5.** (1) The Human Stem Cell Research Grant Fund is established separate and  
37 distinct from the General Fund. All moneys received by the Human Stem Cell Research  
38 Committee shall be deposited into the State Treasury and credited to the Human Stem Cell  
39 Research Grant Fund.

40 (2) Interest earned by the Human Stem Cell Research Grant Fund shall be credited to  
41 the fund.

42 (3) All moneys in the Human Stem Cell Research Grant Fund are continuously appro-  
43 priated to the Human Stem Cell Research Committee for the purposes of sections 2, 3, 4, 5,  
44 7 and 8 of this 2007 Act.

45 **SECTION 6.** Notwithstanding the term of office specified by section 2 of this 2007 Act,

1 of the members first appointed to the Human Stem Cell Research Committee:

2 (1) Three shall serve for terms ending January 1, 2009.

3 (2) Three shall serve for terms ending January 1, 2010.

4 (3) Three shall serve for terms ending January 1, 2011.

5 (4) Four shall serve for terms ending December 31, 2012.

6 **SECTION 7.** (1) A health care provider delivering fertility treatment must provide the  
7 patient with timely, relevant and appropriate information about stem cell research to allow  
8 the patient to make an informed and voluntary choice about the disposition of any human  
9 blastocysts remaining following the fertility treatment.

10 (2) Any person to whom information is provided pursuant to subsection (1) of this section  
11 must be presented with the option of storing any unused blastocysts, donating unused  
12 blastocysts to another individual, discarding unused blastocysts or donating unused  
13 blastocysts for research. Prior to providing fertility treatment, the health care provider must  
14 provide a form to the male and female partner, or the patient without a partner, as appli-  
15 cable, that sets forth advanced written directives regarding the disposition of unused  
16 blastocysts. The form must indicate the time limit on storage of the blastocysts at the clinic  
17 or storage facility and provide, at a minimum, the following choices for disposition of the  
18 blastocysts based on the following circumstances:

19 (a) Upon written notice of the death of a patient or patient's partner, the blastocysts  
20 must be disposed of by one of the following actions:

21 (A) Making the blastocysts available to the living partner, if any;

22 (B) Donating the blastocysts for research purposes;

23 (C) Thawing the blastocysts without any further action;

24 (D) Donating the blastocysts to another person; or

25 (E) Disposing of the blastocysts in any other clearly stated method.

26 (b) Upon written notice of the separation or divorce of the partners, the blastocysts must  
27 be disposed of by any of the following actions:

28 (A) Making the blastocysts available to the female partner;

29 (B) Making the blastocysts available to the male partner;

30 (C) Donating the blastocysts for research purposes;

31 (D) Thawing the blastocysts without any further action;

32 (E) Donating the blastocysts to another person; or

33 (F) Disposing of the blastocysts in any other clearly stated method.

34 (c) Upon the partners' decision, or the decision of a patient without a partner, to abandon  
35 the blastocysts by written request or upon a failure to pay storage fees, the blastocysts must  
36 be disposed of by one of the following actions:

37 (A) Donating the blastocysts for research purposes;

38 (B) Thawing the blastocysts without any further action;

39 (C) Donating the blastocysts to another person; or

40 (D) Disposing of the blastocysts in any other clearly stated method.

41 (3) A health care provider delivering fertility treatment must obtain written informed  
42 consent from any person who elects to donate blastocysts remaining after fertility treatment  
43 for research. To obtain informed consent, the health care provider must obtain signed con-  
44 firmation that the person donating blastocysts has been informed that:

45 (a) The blastocysts may be used to derive human pluripotent stem cells for research and

1 that the cells may be used, at some future time, for human transplantation research;

2 (b) Information that would permit the donor to be individually identified will be removed  
3 before deriving human embryonic stem cell lines;

4 (c) Donors will not receive any information about subsequent testing on the blastocysts  
5 or the derived human pluripotent stem cells;

6 (d) Derived cells or cell lines may be kept for many years;

7 (e) The donated material may have commercial potential, and the donor will not receive  
8 financial or any other benefits from any future commercial development;

9 (f) The human pluripotent stem cell research is not intended to provide direct medical  
10 benefit to the donor;

11 (g) Human blastocysts donated for research may not be transferred to a woman's uterus  
12 and will be destroyed during the stem cell derivation process; and

13 (h) Research using donated blastocysts will be conducted in accordance with the guide-  
14 lines developed by the committee under section 3 of this 2007 Act.

15 **SECTION 8.** A person may not use human eggs or human sperm that have been donated  
16 for purposes of assisted reproduction to create human embryonic stem cells for use in re-  
17 search without obtaining the written informed consent of the donor to use the eggs or sperm  
18 for research purposes required in section 7 of this 2007 Act.

19 **SECTION 9.** (1) In addition to any other penalty imposed by law, the Department of Hu-  
20 man Services may impose a civil penalty on any person for violation of section 7 or 8 of this  
21 2007 Act. The civil penalty imposed under this subsection may not exceed \$10,000 for each  
22 violation.

23 (2) Civil penalties imposed under this subsection shall be imposed in the manner provided  
24 by ORS 183.745.

25 (3) Penalties collected under this section shall be deposited in the Human Stem Cell Re-  
26 search Grant Fund established under section 5 of this 2007 Act.

27 **SECTION 10.** The Department of Human Services may adopt rules necessary to imple-  
28 ment the provisions of sections 7 and 8 of this 2007 Act.

29