

VIA PERSONAL DELIVERY

Office of the Attorney General  
ATTN: Initiative Coordinator  
1330 "I" Street  
Sacramento, CA 95814

08-0004

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

February 1, 2008

Re: Request for Title and Summary- Initiative Constitutional Amendment  
For the November 2008 Election

Dear Initiative Coordinator,

Pursuant to Article II, Section 10(d) of the California Constitution, and Section 9002 of the Election Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment for, "The Ban on Destructive Human Embryo Research."

Enclosed please find from the San Jose Group: 1) the language of the proposed initiative; 2) the executed certifications required by Election Code section 9608; 3) a \$200 check for the filing fee.

Should you have any questions or require further information, please contact Laura Storms, [lstorms@comcast.net](mailto:lstorms@comcast.net) or the website [www.sanjosegroupinitiatives.com](http://www.sanjosegroupinitiatives.com)

Sincerely,

Laura Storms  
San Jose Group.

SECTION 1. Title.

The Act may be known and cited as, "The Ban on Destructive Human Embryo Research."

SECTION 2. Findings and Declarations

- a) The great State of California hereby declares and finds to be true that human embryos need to be protected from people who seek to kill them for their stem cells.
- b) The great State of California hereby declares and finds to be true that human embryos shall not be killed for scientific experiments.
- c) The great State of California hereby declares and finds to be true that embryonic stem cell research has only killed embryos and has not warranted or substantiated the killing of human embryos.

SECTION 3. Purpose and Intent of this Act.

The purpose of this Act is to ban the killing of human embryos for the use of their stem cells.

SECTION 4. Constitutional Amendment.

Article XXXVII shall be added to the Constitution to read:

Sec. 1. Notwithstanding Article XXXV or any other provision of this Constitution or law to the contrary, it shall be unlawful for any person to:

- a) intentionally or knowingly conduct destructive research on a human *embryo*; or
- b) buy, sell, receive, or otherwise transfer a human embryo with the knowledge that such embryo will be subject to destructive research; or
- c) buy, sell, receive, or otherwise transfer gametes with the knowledge that a human embryo will be produced from such gametes to be used in destructive research.

Sec. 2. For the purposes of this Article:

- a) "Human Embryo" means a genetically complete living organism of the species homo sapiens, from single cell stage to eight weeks development, that is not located in a woman's body;
- b) "Gamete" means a human sperm or unfertilized human ovum;

c) "Destructive research" means medical procedures, scientific or laboratory research, or other kinds of investigation that kill or injure the subject of such research. It does not include:

1) in vitro fertilization and accompanying embryo transfer to a woman's body, or

2) any diagnostic procedure that may benefit the human embryo subject to such tests.

## SECTION 5. Statutory Amendment.

Sections 201 et seq. shall be added to Chapter 1 of Title 8 of the Penal Code to read:

201. It shall be unlawful for any person to:

a) intentionally or knowingly conduct destructive research on a human embryo; or

b) buy, sell, receive, or otherwise transfer a human embryo with the knowledge that such embryo will be subject to destructive research; or

c) buy, sell, receive, or otherwise transfer gametes with the knowledge that a human embryo will be produced from such gametes to be used in destructive research.

201.1. a) Criminal Sanctions:

1) Any person or entity that violates Section 201 (a) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole

2) Any person or entity that violates Section 201 (b) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole

3) Any person or entity that violates Section 201(c) shall be guilty of a felony, and shall be punished by imprisonment in the state prison for a term of 15 years without the possibility of parole.

b) Fines.

In addition to any criminal penalty, any person or entity that violates section 201 (a), or 201(b), or 201(c) and derives a pecuniary gain from such violation shall be liable for a civil penalty of not less than two hundred fifty thousand dollars (\$250,000) per violation or twice the amount of gross gain, whichever is greater, in an action brought by the Attorney General. All fines collected shall be placed into the General Fund of the State of California.

c) Unprofessional Conduct.

Any violation of this Act shall constitute unprofessional conduct and shall result in permanent revocation of the violator's license to practice medicine.

- d) Trade, Occupation, or Profession,  
Any violation of this Act may be the basis for denying an application for, denying an application for the renewal of, or revoking any license, permit, certificate, or any other form of permission required to practice or engage in a trade, occupation, or profession,
- e) All contracts for payment of license fees or royalties for intellectual property derived in whole or part from acts in violation of Section 20I are contrary to the public policy of this State and shall be deemed unenforceable in the courts of this State.

Section 201.2 For the purposes of Section 201 and 201.1:

- a) "Human Embryo" means a genetically complete living organism of the species homo sapiens, from single cell stage to eight weeks development, that is not located in a woman's body;
- b) "Gamete" means a human sperm or unfertilized human ovum;
- c) "Destructive research" means medical procedures, scientific or laboratory research, or other kinds of investigation that kill or injure the subject of such research, It does not include:
  - 1) in vitro fertilization and accompanying embryo transfer to a woman's body, or
  - 2) any diagnostic procedure that may benefit the human embryo subject to such tests,

#### SECTION 6. Severability

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances,

#### SECTION 7. Right to Intervention

The proponent of this initiative, or his or her designee, shall have the right to intervene in any action challenging the constitutionality or enforceability of this Act. The state shall be required to pay all legal costs and fees of the proponent of this initiative as intervenor in any action challenging the constitutionality or enforceability of this Act.

#### SECTION 8. Conflicting Ballot Measures.

Previous ballot measures that were passed prior the passage of this measure will not be allowed to violate this measure by law. Any ballot measure on the same ballot, during the passage of this

measure, that is in direct violation of this act. whether it was passed by the voters or not, if this measure received more affirmative votes than the other measure, this measure hereby nullifies and voids their measure(s). If another opposing measure or opposing measures which passed by the voters in the same election on the same ballot received a greater number of affirmative votes, the provisions of this measure shall take effect, whether in whole or in part, that is permitted by law.

If this measure were passed by the voters but another opposing measure in the same election on the same ballot were passed by the voters and supersedes with affirmative votes, which is later determined to be invalid, for whatever reason, this measure shall become fully enforceable.

**SECTION 9. Effective Date**

This Act shall take effect upon passage.