

**MISSOURI STATE AUDITOR'S OFFICE  
FISCAL NOTE (06-18)**

**Subject**

Initiative petition from David Reardon, Paula Talley and the Elliot Institute regarding a proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering. (Received February 27, 2006)

**Date**

March 17, 2006

**Description**

This initiative petition would add a new section to the Missouri Constitution to be known as Regulation of Human-Animal Crossbreeds, Cloning, Transhumansim, and Human Engineering. The initiative petition indicates the use of genetic manipulations for the purpose of human engineering would have a profound effect on the structure and nature of families and society. The biological risks and moral implications of human engineering have not been fully ascertained nor is there a consensus among the public regarding the forms of human engineering, if any, that would best benefit society.

Mistakes in human engineering can cause irreparable injury to individuals which may be propagated throughout the human species risking injury to untold future generations unless the genetically damaged children are forcibly sterilized or killed.

The purpose of this Article is to erect a general prohibition against any genetic alteration of human beings, destructive experiments on human beings, and the artificial creation of life forms containing human genes with exceptions for specific technologies that are hereby specifically approved by the people of Missouri or may in the future be approved by means of amendments to this Article.

Human engineering is a crime against humanity and subject to appropriate criminal penalties that may be defined by the legislature and international law but shall in any case be not less than the penalties provided for aggravated homicide.

Any human being whose gamete material or cells are used for human engineering in violation of this act shall be entitled to the greater of actual damages or \$5,000,000 in statutory damages, plus attorney's fees, and court costs. Any human being whose gamete material or cells are used as allowed in the exceptions, who did not give fully informed and free consent for the use of these cells or gamete materials for said purposes shall be allowed the greater of treble actual damages or \$5,000,000 in statutory, punitive damages, attorneys' fees, and court costs.

Any human being, or his survivors, who was altered by an act of human engineering in violation of this Act shall be allowed the greater of treble actual damages or \$10,000,000

in statutory damages, punitive damages, attorneys' fees, and court costs. In the event that the identity of a human being previously described can not be determined, any natural person may file the suit on behalf of the unidentified human being provided that 10% of any award of damages shall be paid to the person filing the suit and 90% shall be paid to the state's treasury.

The petition does not prohibit therapeutic procedures performed on a nascent human life that is intended to benefit that individual human being by correcting a genetic abnormality prior to birth. It does not prohibit in vitro fertilization with unaltered human gametes wherein the resulting nascent human life is forthwith implanted into the womb of an adult human female with the intention of giving birth to a live born human child.

The petition does not prohibit any therapeutic or experimental treatment performed for benefit of an individual human being using human stem cells extracted in a manner for which there is less than a one percent risk of significant harm to the individual human being from whom the stem cells are extracted. It does not prohibit any therapeutic or experimental treatment performed for benefit of an individual human being using stem cells extracted from a human embryo in the blastula stage or within the first 30 days after cell division or any procedures that may subsequently be defined by the people of Missouri through a constitutional amendment to this section.

### **Public comments and other input**

The State Auditor's Office received input from the Secretary of State's Office, the Attorney General's Office, the Department of Social Services, the Department of Health and Senior Services, the Department of Higher Education, the State Public Defender, the Office of the State Courts Administrator, the Department of Corrections, and the University of Missouri. Representatives from the Missouri Coalition for Lifesaving Cures provided comments regarding this proposal via telephone.

### **Assumptions**

Officials from the Secretary of State's Office indicated the petition does not have any specific cost to the Office other than the cost of newspaper publication in advance of the election that is required should enough valid signatures be collected to result in the issue being placed on the ballot.

The Attorney General's Office (AGO) stated that implementing the proposed initiative petition would not directly affect the office. However, the AGO assumes that because the proposal has the potential to be the subject of litigation, costs are unknown, but are likely to be less than \$100,000.

Officials from the Department of Social Services indicated the petition would have no fiscal impact on their department. The Department does not fund nor perform this type of research.

The Department of Health and Senior Services indicated they would not respond to the petition.

Officials from the Department of Higher Education indicated the petition would have no fiscal impact on their department. However, it may have an impact on higher education institutions with a research related mission.

The State Public Defender indicated the proposed amendment would not have a fiscal impact on the Missouri State Public Defender System.

Officials from the Office of the State Courts Administrator do not anticipate a fiscal impact on the judiciary.

The Department of Corrections (DOC) indicated the need for capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceed current planned capacity.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision proved by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the University of Missouri indicated they are unable to determine the fiscal impact, if any, of the initiative petition for proposed constitutional amendment adding a new section pertaining to the regulation of cloning and human engineering.

### **Fiscal Note Summary**

The proposed constitutional amendment would have an estimated annual fiscal impact on state and local government of \$0 - \$100,000.