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## U.S. law not clear on cloning work

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Federal officials yesterday vowed to investigate a sect saying it had cloned a human to determine whether it illegally conducted any work in the United States, despite the absence of any cloning-specific U.S. law.

Without offering DNA proof, a company called Clonaid — formed by the Raelians religious sect — announced that a 7-pound girl nicknamed "Eve" was delivered by Caesarean section Thursday to a 31-year-old American woman whose DNA was used for the cloning. Other births were said to be imminent.

Several states outlaw cloning, but no U.S. federal law specifically forbids asexual reproduction, despite bipartisan efforts to pass one by the 107th Congress. Researchers in the field have speculated that scientists could stay beyond the reach of restrictive laws by working aboard ships on the high seas.

A high-ranking FDA official said yesterday that investigators will seek more facts from Clonaid.

"Where did the implantation take place? That's the fundamental question," the official told the Associated Press on the condition of anonymity.

"The implantation of a cloned baby into a woman is, we think, illegal in the United States without FDA approval because of fundamental safety and ethical concerns," the official said.

The White House issued a statement yesterday in response to the news. "The president believes, like most Americans, that human cloning is deeply troubling, and he strongly supports legislation banning all human cloning," White House spokesman Scott McClellan said.

Britain, Israel, Japan and Germany already ban human cloning.

Blocked by the United States, a U.N. legal committee failed on Nov. 8 to agree on a draft accord to ban human cloning for reproduction worldwide.

The United States and Spain forced a delay to seek "a comprehensive and global ban on human cloning" that includes cloning for medical purposes, not simply forbidding cloning for human reproduction, as France and Germany advocate.

The U.S. position had 37 sponsors, and the French-German proposal had 21.

"The biotechnology revolution is changing what it means to be human," San Francisco personal-injury lawyer Justine Durrell said.

Miss Durrell, whose practice deals with issues involving embryo implantation, said that even without specific legislation, civil courts would be to likely rule in favor of those seeking to forbid cloning.

"If something is going to change the evolution of the human species, it should be regulated, and medical ethical considerations should be a part of that regulation," she said in

an interview.

A clone "could make valid claims against both the institution and his or her parents for the cloning process, which is experimental and known to result in a high percentage of deformity, early death, and premature aging," Miss Durrell wrote in the October issue of *Trial*, the journal of the Association of Trial Lawyers of America.

Three weeks after blocking U.N. action, President Bush issued Executive Order 13237 creating the President's Council on Bioethics. In July, after four public hearings and 12 closed debate sessions, the council unanimously recommended a permanent ban on cloning to produce human children.

The panel split 10-7, however, on whether to impose a four-year moratorium on cloning techniques for biomedical research. Their report said researchers believe the capability of human embryonic stem cells to generate into any type of cell in the body holds promise for understanding and treating chronic diseases and medical conditions.

"Bypassing sexual reproduction, [cloning] would move procreation increasingly under artful human control and in the direction of manufacture," said the panel's chairman, Dr. Leon R. Kass, who sided with the majority favoring a ban and moratorium.

"Seen as a forerunner of possible future genetic engineering, [cloning] raises for many people concerns also about eugenics, the project to 'improve' the human race," he said.

When scientists first isolated embryonic stem cells in 1998, the Food and Drug Administration contended that its power to regulate human experimentation meant researchers must get prior FDA authorization for any attempt to clone humans.

Some members of Congress doubt the FDA has authority on the issue and cited the agency's shaky position as grounds to pass a criminal law against cloning.

A bill introduced by Rep. Dave Weldon, Florida Republican, with five co-sponsors — modified on the floor to permit cloning for medical research short of initiating a pregnancy — passed the House 265-162 on July 31, 2001.

Sen. Arlen Specter, Pennsylvania Republican, with 12 co-sponsors, introduced a similar measure in the Senate on May 1, 2002. It was dispatched to committee and officially dies when the new Senate convenes Jan. 7.

Mr. Specter's co-sponsors included Democratic Sens. Edward M. Kennedy of Massachusetts and Hillary Rodham Clinton of New York, and Republican Sens. Orrin G. Hatch of Utah and Strom Thurmond of South Carolina.

The Bush administration saw problems with that bill, the Human Cloning Prohibition Act of 2002.

Assistant Attorney General Daniel J. Bryant testified that the bill's proposed ban on "implanting or attempting to implant the product of nuclear transplantation into a uterus or the functional equivalent of a uterus" amounted to outlawing implantation of blastocysts five to six days after fertilization.

Implantation of an embryo after in vitro fertilization is done thousands of times a year to help infertile women become pregnant.

"The transfer of an embryo to initiate a clinical pregnancy is presumably the same, regardless of whether the embryo involved was originally produced by cloning or fertilization," Mr. Bryant said, questioning how the law could be enforced.

"There does not seem to be any reliable means for determining the difference between a fertilized embryo and a cloned embryo. For all we know, these embryos are biologically indistinguishable," he said.