

# TESTIMONY OF MISSOURI RIGHT TO LIFE IN OPPOSITION TO SB 389

Missouri Right to Life opposes SB 389 because it will provide state institutions with money to spend for facilities and programs that will destroy human life through cloning and embryonic stem cell research. SB 389 is intended to allow the sale of approximately half of the assets of MOHELA and distribute the proceeds primarily to state institutions. One major goal of the infusion of MOHELA funds is to expand the infrastructure available for biological science programs, which may well include embryonic stem cell research unless prohibited. Unfortunately, it is not possible to enact pro-life restrictions since the adoption of Amendment 2. Even if it were possible, the provisions of SB 389 and the contracts and resolution that it describes are plainly insufficient to restrict unethical, life-destroying research from being facilitated and performed using MOHELA money.

Now, no one should suggest or conclude that Missouri Right to Life is against scientific research. No one in MRL opposes ethical medical and scientific research. After all, our members like to have the latest medical care, just like everyone else. What MRL objects to is the destruction of human life caused by unethical research. The use of adult stem cells is proper, for such use does not entail the destruction of human life. It is also promising, for it is the only type of stem cell research that has resulted in clinical benefits to real patients. On the other hand, embryonic stem cell research is improper, because it requires the destruction of human life, and it has no favorable clinical results to date or even on the horizon. Scientists in this research field caution that any beneficial results are decades away—not just years, but decades. The promoters of embryonic stem cell research are selling nothing but snake oil, and to the extent that funds from the sale of MOHELA assets are used for it, then that money is simply wasted. Human lives should not be destroyed on fruitless quests for pie in the sky.

Some legislators have suggested that proper restrictions have been adopted to prevent the MOHELA funds from being used for unethical research. That is just wishful thinking, for several reasons.

The most compelling reason is that the adoption of Amendment 2 last November makes any such restrictions null, void, and completely unenforceable. Amendment 2, now codified as Article III, section 38(d) of the Missouri Constitution, forbids the General Assembly from mandating any restrictions on the use of the MOHELA money that would “discourage” stem cell research or “create disincentives” to any person in engaging in it. Not only is that language used in subdiv. 2, paragraph (7), of section 38(d), it is also used again in subdiv. 7 of section 38(d). And just in case citizens and the courts did not get it the first and second time, Amendment 2 imposed a similar ban a third time, by providing in subdiv. 5 that no “governmental body or official” may reduce, deny, or withhold any public funds to an entity that lawfully conducts stem cell research. Therefore, it is thrice made clear by Amendment 2 that the language in SB 389, including the language at subsection 2 of sec. 173.475 that purports to make enforceable certain contractual terms and a resolution by the Missouri Development Finance Board, is a dead letter. It cannot have any validity under Amendment 2.

The same principle holds true for the resolution of the Missouri Development Finance Board itself. The three prohibitions of Amendment 2 apply not only to the General Assembly, but also to any “state or local governmental body or official.” This means every agency or instrumentality of state and local government, whether in the executive, legislative, or judicial branches, has no power to restrict the uses of state money if such restriction would “discourage” or create a “disincentive” to stem cell research. Consequently, that portion of the resolution of the MDFB that would restrict constructing or using facilities for unethical research is unconstitutional. Moreover, while private contracting parties are free to enter into any contract they desire, the state institutions that have entered into the cooperation agreement that creates the Revised Lewis and Clark Discovery Initiative are bound by Amendment 2 just as much as the State itself. They cannot bind their agencies to any pro-life provisions of the cooperation agreement. Finally, enforcement of contracts is ultimately in the hands of the courts of law, but the courts are bound by Amendment 2 just as much as all other officials. The courts cannot enter any orders that would “discourage” stem cell research or create a “disincentive” for it, which effectively deprives them of the power to enforce the provisions of the cooperation

agreement that some claim to be pro-life.

Therefore, the Missouri Constitution, now that it contains Amendment 2, invalidates the provisions of SB 389, and also the provisions of the cooperation agreement and the resolution of the MDFB that would restrict the unethical research to which pro-life citizens object. What is more, the Missouri constitution now prevents the courts from enforcing any such enactment of the General Assembly, any such agreement, and any such resolution.

In short, there is no way to fix the pro-life problems inherent in the MOHELA transaction as long as Amendment 2 remains in effect.

Because of Amendment 2, it is unnecessary to testify on the other reasons why SB 389 proves unavailing to pro-life concerns. They will be summarized very quickly by saying that SB 389 fails to keep the contracting parties or MDFB from simply discarding the pro-life language in the cooperation agreement and the MDFB resolution once the MOHELA money is distributed; no taxpayer has standing to enforce the cooperation agreement or the MDFB resolution in the courts; and the language of subsection 2 that purports to make enforceable the cooperating agreement and resolution is declared in subsection 4 to have no effect as a restriction on those who use the money anyway. In the end, when it comes to pro-life concerns, SB 389 is no sturdier than a sand castle, and it is just as likely as a sand castle to be washed away in the next tide.

For these reasons, Missouri Right to Life strongly opposes SB 389 and urges that it be defeated in this committee.