



The Rapidly Changing IVF Landscape

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What is IVF?

There are many types of assisted reproductive technologies that can help a person get pregnant. Some of the most common forms are: Intrauterine insemination, where healthy sperm is collected and inserted directly into a uterus when a person is ovulating; cryopreservation, freezing of eggs, sperm, or embryos; egg or embryo donation; and gestational carriers, aka surrogacy.¹

IVF is a term that has been used quite frequently in the past month. In vitro fertilization, IVF, helps with fertilization, embryo development, and implantation so a person can get pregnant.² It is one of the more widely known and used types of assisted reproductive technology (ART).³ IVF uses a combination of medicines and surgical procedures to help sperm fertilize an egg and then help the fertilized egg implant in the uterus.⁴ A person going through IVF treatment will begin by taking medication that makes several eggs mature and ready for fertilization.⁵ Next, a doctor takes the eggs from the body and mixes them with sperm in a lab

¹ Planned Parenthood, *Fertility Treatments*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments>

² Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

³ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

⁴ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

⁵ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>



to help fertilize the eggs.⁶ Finally, they implant the fertilized eggs into a person's uterus in hopes that the egg attaches and implants to the uterus, which results in pregnancy.⁷

A major concern of IVF and lack of access to fertility treatments, is the great financial burden. A report from 2015 estimated the median cost for a round of IVF treatment was over \$19,000.⁸ One round of IVF includes the medicines, procedures, anesthesia, ultrasounds, blood tests, lab work, and embryo storage.⁹

There are significant racial and socioeconomic disparities among fertility patients accessing care.¹⁰ In a recent analysis it was found that there are no differences in infertility rates by race/ethnicity, education, income, US citizenship, insurance or location of healthcare but that there is difference between who is accessing fertility care.¹¹ The majority of individuals accessing services were white, highly educated, and had income levels > \$100,000.¹² Additionally, Black and Hispanic birthing people attempted to conceive longer before seeking treatment and reported more difficulty getting appointments, taking time off work, and affording fertility treatment.¹³ In a recent analysis it was found that there are no differences in infertility rates by race/ethnicity, education, income, US citizenship, insurance or location of healthcare but that there is difference between who is accessing fertility care.¹⁴

⁶ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

⁷ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

⁸ Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>

⁹ Planned Parenthood, *What is IVF?*, Planned Parenthood (2024), <https://www.plannedparenthood.org/learn/pregnancy/fertility-treatments/what-ivf>

¹⁰ Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>

¹¹ Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>

¹² Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>

¹³ Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>

¹⁴ Galic, Negris, Warren, Brown, Bozen, & Jain, *Disparities in access to fertility care: who's in and who's out*, National Library of Medicine (Nov. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8244333/>



While cost alone is a major barrier for people seeking fertility care, there are significant inequalities for the LGBTQIA+ communities seeking care. While health insurances may help cover the cost of fertility treatments, they may exclude couples that are not “having heterosexual sex”.¹⁵ Only 14 states provide coverage on private insurance plans for fertility health care, but only three of those 14 states have fertility insurance laws that inclusively cover LGBTQ people.¹⁶ Further, some insurances will require a person to be diagnosed with ‘infertility’ in order to qualify for coverage of fertility treatment.¹⁷ They will consider a person being infertile after failing to become pregnant after attempting for at least 12 months of intrauterine insemination - paid out of pocket- before insurance would kick in to pay.¹⁸

Lawmakers Roles in IVF

Lawmakers and legislators have the most say in reproductive rights. It is no surprise that many legislators are working overtime to ensure abortion and other reproductive care ceases to exist, by any means necessary. In the last few years, the concept of fetal personhood has been pushed and has become law in many states. Fetal personhood statutes give fetuses, and sometimes embryos, the same legal rights as people.¹⁹ More than a third of US states have these types of laws.²⁰ Fetal personhood laws can be used to prosecute pregnant persons for

¹⁵ Dwyer, Devin & See, Patty, *LGBTQ couples push for 'fertility equality' in family-building benefits*, ABC News (June 2023), <https://abcnews.go.com/US/lgbtq-couples-push-fertility-equality-family-building-benefits/story?id=100243800>

¹⁶ Dwyer, Devin & See, Patty, *LGBTQ couples push for 'fertility equality' in family-building benefits*, ABC News (June 2023), <https://abcnews.go.com/US/lgbtq-couples-push-fertility-equality-family-building-benefits/story?id=100243800>

¹⁷ Dwyer, Devin & See, Patty, *LGBTQ couples push for 'fertility equality' in family-building benefits*, ABC News (June 2023), <https://abcnews.go.com/US/lgbtq-couples-push-fertility-equality-family-building-benefits/story?id=100243800>

¹⁸ Dwyer, Devin & See, Patty, *LGBTQ couples push for 'fertility equality' in family-building benefits*, ABC News (June 2023), <https://abcnews.go.com/US/lgbtq-couples-push-fertility-equality-family-building-benefits/story?id=100243800>

¹⁹ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024), <https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

²⁰ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024), <https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>



miscarrying or potentially undergoing necessary medical procedures.²¹ Many insurance companies will also use extremely gendered terms, this language can exclude hopeful trans and gender expansive parents.

A recent court ruling has pushed IVF to the forefront in the past few weeks. The court ruling came from the Supreme Court of Alabama and recognized embryos as “extrauterine children” after an IVF treatment center was sued by expectant parents.²² The case came forward after the parents of the embryo tried to collect damages under the Wrongful Death of a Minor Act, leading the courts to identify whether an embryo is a child.²³ In coming to their conclusion, the Justices used a lot of religious rhetoric including a line, “We believe that each human, being from the moment of conception, is made in the image of God, created by Him to reflect His likeness. It is as if the People of Alabama took what was spoken of the prophet Jeremiah, and applied it to every unborn person in the state.”²⁴ The court largely used theology to back up their decision rather than outlined legal precedent.

Many questions arose after this opinion was released. Patients and providers were concerned about liability and possible criminal implications if they discarded embryos that were not viable or if they had a genetic defect.²⁵ In Louisiana, the disposal of embryos is prohibited, they must be stored indefinitely or donated to a married couple.²⁶

²¹ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024),

<https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

²² Ungar, Laura, *IVF is dominating headlines in Alabama and across the country. Here’s what you should know about it*, AP News (Mar. 2024), <https://apnews.com/article/ivf-frozen-embryo-alabama-court-7c968cc00201731d7baba5a284655b0d>

²³ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024),

<https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

²⁴ Sharfstein, Joshua, *The Alabama Supreme Court’s Ruling on Frozen Embryos*, Bloomberg School of Public Health (Feb. 2024), <https://publichealth.jhu.edu/2024/the-alabama-supreme-courts-ruling-on-frozen-embryos>

²⁵ Sharfstein, Joshua, *The Alabama Supreme Court’s Ruling on Frozen Embryos*, Bloomberg School of Public Health (Feb. 2024), <https://publichealth.jhu.edu/2024/the-alabama-supreme-courts-ruling-on-frozen-embryos>

²⁶ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024),

<https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>



Following this ruling, three of Alabama’s major IVF providers paused services.²⁷ After this court ruling, there were major concerns regarding anti-abortion rhetoric and issues that could arise in a post-*Roe* landscape. It raised the question about the thousands of fertilized eggs across the country and whether they would need to be preserved indefinitely.²⁸ IVF clinics routinely discard unviable and leftover embryos, a practice which could have led to charges of involuntary manslaughter or homicide under the new legal precedent.²⁹ This ruling, coupled with the fetal personhood laws, has many reproductive rights advocates concerned that halting and getting rid of IVF may be the next target.³⁰

In the aftermath of this ruling, many states have taken steps to protect and enshrine IVF and other fertility care treatments into their state constitutions. In early March, Alabama lawmakers were successful in passing IVF protections. Alabama State Legislature passed a bill granting civil and criminal immunity for in vitro fertilization service providers and receivers.³¹ Alabama governor, Kay Ivey, signed the bill into legislation an hour after she received it.³² This specific bill moved really quickly, essentially as a stop-gap measure to allow fertility treatments to resume.³³ The bill was originally intended to define personhood but the language was removed to ensure it would move smoothly.³⁴

²⁷ Ungar, Laura, *IVF is dominating headlines in Alabama and across the country. Here’s what you should know about it*, AP News (Mar. 2024), <https://apnews.com/article/ivf-frozen-embryo-alabama-court-7c968cc00201731d7baba5a284655b0d>

²⁸ Sharfstein, Joshua, *The Alabama Supreme Court’s Ruling on Frozen Embryos*, Bloomberg School of Public Health (Feb. 2024), <https://publichealth.jhu.edu/2024/the-alabama-supreme-courts-ruling-on-frozen-embryos>

²⁹ Baker, Elliott, & Capelouto, *Alabama governor signs IVF bill giving immunity to patients and providers*, NPR News (Mar. 2024), <https://www.npr.org/2024/03/06/1235907160/alabama-lawmakers-pass-ivf-immunity-legislation>

³⁰ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024),

<https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

³¹ Baker, Elliott, & Capelouto, *Alabama governor signs IVF bill giving immunity to patients and providers*, NPR News (Mar. 2024), <https://www.npr.org/2024/03/06/1235907160/alabama-lawmakers-pass-ivf-immunity-legislation>

³² Baker, Elliott, & Capelouto, *Alabama governor signs IVF bill giving immunity to patients and providers*, NPR News (Mar. 2024), <https://www.npr.org/2024/03/06/1235907160/alabama-lawmakers-pass-ivf-immunity-legislation>

³³ Baker, Elliott, & Capelouto, *Alabama governor signs IVF bill giving immunity to patients and providers*, NPR News (Mar. 2024), <https://www.npr.org/2024/03/06/1235907160/alabama-lawmakers-pass-ivf-immunity-legislation>

³⁴ Baker, Elliott, & Capelouto, *Alabama governor signs IVF bill giving immunity to patients and providers*, NPR News (Mar. 2024), <https://www.npr.org/2024/03/06/1235907160/alabama-lawmakers-pass-ivf-immunity-legislation>



What Happens When IVF is no longer available

Fertility care and other assisted reproductive technologies are extremely important and necessary for creating families. Without IVF and other fertility treatments, many families will not be able to have a child.

Like many other issues plaguing this country, inaccessible fertility care can disproportionately affect already marginalized communities. IVF is widely used by queer couples because they have fewer options than straight people and depend greatly on access to fertility care to start a family.³⁵ Many queer people already face barriers because of the language used in health insurance to determine whether they will cover fertility treatments.³⁶ Alabama, for example, also makes it more difficult for LGBTQIA+ couples to foster or adopt, leaving very few options for starting a family.³⁷ The Affordable Care Act prohibits discrimination in the healthcare sector based on sex, but the Trump Administration eliminated these protections through regulatory changes and without the explicit protections, LGBTQIA+ patients may be denied healthcare, including fertility care, under religious freedom laws.³⁸

Additionally, if states begin banning IVF, lower income couples will likely be unable to travel outside of the state to access the fertility care that they need in order to start their families. IVF is also used to test embryos for genetic abnormalities that increase the risk of miscarriage and stillbirth, if IVF care is no longer available then this testing may not be either.³⁹ People are growing hesitant to harvest and store their eggs because of the uncertainty

³⁵ Clendenin, Jay, LGBTQ People May Be Disproportionately Affected If IVF Becomes Inaccessible, TruthOut News (Mar. 2024), <https://truthout.org/articles/lgbtq-people-may-be-disproportionately-affected-if-ivf-becomes-inaccessible/>

³⁶ Clendenin, Jay, LGBTQ People May Be Disproportionately Affected If IVF Becomes Inaccessible, TruthOut News (Mar. 2024), <https://truthout.org/articles/lgbtq-people-may-be-disproportionately-affected-if-ivf-becomes-inaccessible/>

³⁷ Clendenin, Jay, LGBTQ People May Be Disproportionately Affected If IVF Becomes Inaccessible, TruthOut News (Mar. 2024), <https://truthout.org/articles/lgbtq-people-may-be-disproportionately-affected-if-ivf-becomes-inaccessible/>

³⁸ Weigel, Ranji, Long, & Salganicoff, *Coverage and Use of Fertility Services in the U.S.*, KFF Researchers (Sept. 2020), <https://www.kff.org/womens-health-policy/issue-brief/coverage-and-use-of-fertility-services-in-the-u-s/>

³⁹ Clendenin, Jay, *LGBTQ People May Be Disproportionately Affected If IVF Becomes Inaccessible*, TruthOut News (Mar. 2024), <https://truthout.org/articles/lgbtq-people-may-be-disproportionately-affected-if-ivf-becomes-inaccessible/>



surrounding storing this genetic material.⁴⁰ Single parents also often struggle to access fertility treatments because of the language used to define infertility.⁴¹

There are major contradictions with fetal personhood and IVF treatments in the laws. It is confusing for legislators to fight really hard to protect IVF but on the back end they are promoting fetal personhood. Many anti-abortion ‘advocates’ are in favor of protecting IVF. This is contradictory in the fact that a fertilized egg is considered a child for abortion purposes but they want to allow IVF to continue. This logic is extremely disingenuous, legislators should not pick and choose when they want their rules to apply, especially rules based on theology rather than law. Even if Georgia legislators work to protect IVF, Georgians will still face problems when trying to access IVF and other fertility treatments. Protecting IVF is only part of the battle, albeit the most pressing at the moment.

IVF in Georgia

Georgia is not immune from fetal personhood statues and has many legislators working to ban abortion altogether. In Georgia, a law was passed in 2019 called the Living Infants Fairness and Equality Act.⁴² It defines a ‘fetus’ as a person at around 6 weeks gestation, when cardiac activity can be detected.⁴³ This aligns with Georgia’s 6 week abortion ban. Georgia also allows other fetal “protections”, under a new law Georgia residents can choose to claim a fetus as a dependent on their taxes.⁴⁴ Anyone who claims an “unborn dependent” on their taxes is

⁴⁰ Clendenin, Jay, *LGBTQ People May Be Disproportionately Affected If IVF Becomes Inaccessible*, TruthOut News (Mar. 2024), <https://truthout.org/articles/lgbtq-people-may-be-disproportionately-affected-if-ivf-becomes-inaccessible/>

⁴¹ Weigel, Ranji, Long, & Salganicoff, *Coverage and Use of Fertility Services in the U.S.*, KFF Researchers (Sept. 2020), <https://www.kff.org/womens-health-policy/issue-brief/coverage-and-use-of-fertility-services-in-the-u-s/>

⁴² North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024), <https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

⁴³ North, Anna, *Fetal Personhood Laws, Explained*, Vox News (Mar 2024), <https://www.vox.com/policy/24090347/alabama-ivf-ruling-fetal-personhood-abortion-embryos>

⁴⁴ Mahadevan, Pria, *Georgia’s fetal personhood law adds ‘unborn dependents’ to its tax code*, Prism Reports (May 2023), <https://prismreports.org/2023/05/09/georgia-fetal-personhood-tax-code/#:~:text=Under%20the%20new%20law%2C%20Georgia,parent%20may%20claim%20this%20exemption.>



eligible to reduce their taxable income by \$3,000 per fetus.⁴⁵ This is another way for the state to extend fetal personhood.

Many states have been trying to get ahead of the impending IVF restrictions. In Georgia, legislators are working across the aisle to protect IVF access. Georgia Sen. Elena Parent is the lead sponsor on a bill that was introduced on February 29th.⁴⁶ This bill relates to general provisions of health, “so as to provide that a human egg or human embryo is not considered an unborn child, a minor child, or a person for any purpose under the law.”⁴⁷ Even with this, more clarification is needed because of how this may interact with Georgia’s law relating to fetal personhood. Sen. Parent said, “Our code is riddled with all kinds of places where there are question marks, and therefore, we need this strong, very clear, very simple statement that embryos outside of the uterus are not children.”⁴⁸ Democrats from both chambers held a press conference to encourage the majority party to act on just bills that would protect access to IVF and contraception, including condoms, birth control pills, and IUDs.⁴⁹ There is pushback from some legislators, saying that the issue is in Alabama and does not exist in Georgia.⁵⁰

Many Georgia lawmakers have been speaking about IVF protections following the Alabama court ruling. However, with Georgia’s own fetal personhood law in effect, lawmakers must contend with their own dissonance and—perhaps unintended—outcomes of that policy. When states grant personhood to embryos, when they codify that “life begins at conception” this is the result. And while we’ll continue to call on legislators to take away the barriers to

⁴⁵ Mahadevan, Pria, Georgia’s fetal personhood law adds ‘unborn dependents’ to its tax code, Prism Reports (May 2023), <https://prismreports.org/2023/05/09/georgia-fetal-personhood-tax-code/#:~:text=Under%20the%20new%20law%2C%20Georgia,parent%20may%20claim%20this%20exemption.>

⁴⁶ S.B. 565 (2024), <https://www.legis.ga.gov/legislation/67525>

⁴⁷ S.B. 565 (2024), <https://www.legis.ga.gov/legislation/67525>

⁴⁸ Nolin, Jill, *Georgia Democrats push for state laws protecting reproductive rights following Alabama court ruling*, Georgia Recorder (Feb. 2024), <https://georgiarecorder.com/2024/02/29/georgia-democrats-push-for-state-laws-protecting-reproductive-rights-following-alabama-court-ruling/>

⁴⁹ Nolin, Jill, *Georgia Democrats push for state laws protecting reproductive rights following Alabama court ruling*, Georgia Recorder (Feb. 2024), <https://georgiarecorder.com/2024/02/29/georgia-democrats-push-for-state-laws-protecting-reproductive-rights-following-alabama-court-ruling/>

⁵⁰ Nolin, Jill, *Georgia Democrats push for state laws protecting reproductive rights following Alabama court ruling*, Georgia Recorder (Feb. 2024), <https://georgiarecorder.com/2024/02/29/georgia-democrats-push-for-state-laws-protecting-reproductive-rights-following-alabama-court-ruling/>



abortion and support the bodily autonomy and dignity of all Georgians, we hope that any IVF protections that pass will also remedy its current inaccessibility in Georgia. As of now, Georgia does not have IVF protections or measures to support IVF access such as mandated insurance coverage for IVF and other fertility treatments. We hope that legislators who wish to protect IVF also wish to make it more attainable for our communities.

At SPARK, we are working on a campaign to increase IVF access. Our 'Fertility Access Campaign' was created to guarantee equitable and non-discriminatory access to fertility care for all residents of Georgia. Be on the lookout for more information on this campaign and ways to be involved!