

Issue: Fetal Personhood

## Fetal Personhood Laws: Banning all Abortions and Putting IVF on the Chopping Block



“Many of the same Republicans saying they care now about IVF are literally, right now, cosponsors of legislation that would enshrine fetal personhood into law and make IVF unavailable nationwide.” ~Sen. Patty Murray, Floor of the U.S. Senate, February 28, 2024 <sup>1</sup>



### Why fetal personhood laws matter:

- Grant the same rights and privileges to fertilized eggs as children and adults;
- They criminalize pregnancy,<sup>2</sup> unlike abortion laws which regulate a procedure; fetal personhood laws regulate pregnant people and in vitro fertilization (IVF) patients;
- A federal fetal personhood law would ban abortion in EVERY state, such as the Life at Conception Act (2023) supported by 125 Republican representatives in the U.S. House;
- State-level fetal personhood laws ban ALL abortions including for rape, incest and to save the life of the pregnant person unless specific exceptions are included in the law;
- Increase government surveillance of period apps, email, texts, and social media;
- Currently used in Georgia for population-based counts to create legislative district lines.<sup>3</sup>

In 2021, Gov. Ducey signed SB 1457 into law, which was passed by the Arizona state legislature along strict partisan lines.<sup>4</sup> It is a bill that establishes fetal personhood and bans abortions in the case of genetic abnormalities, race, and sex selection. Currently, the fetal personhood section of the law is blocked. If the injunction is lifted, the law could be used to ban all abortions (regardless of the fact that Arizona will have a 15-week abortion ban in place fall 2024), restrict access to IVF, and ban emergency contraception. It is important to note that Republicans block access to certain types of contraception based on the false premise that emergency contraception causes abortions.<sup>5</sup> Emergency contraception does not cause an abortion. It prevents ovulation. For more information on Republican efforts to block emergency contraception see Local Majority’s [full report](#).

After Democrat Attorney General Kris Mayes declined to defend SB 1457 in court, House Speaker Ben Toma and Senate President Warren Petersen, both Republicans, intervened in the lawsuit concerning the fetal personhood section of SB 1457.<sup>6</sup> The initial draft of the bill did not include a carve-out for IVF, meaning it granted fetal personhood to a fertilized egg located in cryogenic storage or a person’s uterus.<sup>7</sup>

Specifically, SB 1457 states:

“The laws of the state shall be interpreted and construed to acknowledge, on behalf of an unborn child at every stage of development, all rights, privileges and immunities available to other persons, citizens and residents of this state.”<sup>8</sup>

The final draft of the law includes a vague amendment that prohibits a cause of action against a person who performs in vitro fertilization (IVF).<sup>9</sup> The scope of the exemption from liability is undefined. Since IVF routinely includes selective reduction in the number of embryos implanted in the patient’s uterus, it is not clear if the exemption also covers the patient, the fertility clinic staff, and the cryostorage facility staff. What is clear is that the definition of personhood stated above in quotes includes IVF embryos routinely discarded or placed in cryostorage.

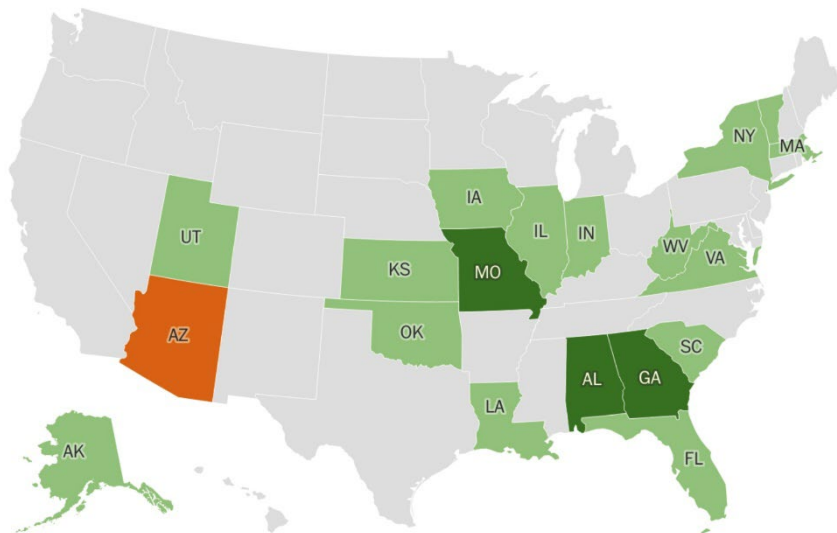
## Fetal Personhood laws during the Arizona 2023 Session

A number of proposed bills posed as efforts to give support to pregnant women but could effectively ban abortion by recognizing “fetal personhood.”<sup>10</sup>

- HB 2501 would have allowed a child tax credit for pregnancy.<sup>11</sup>
- HB 2502 would have allowed women to collect child support back to the date of a positive pregnancy test.<sup>12</sup> [Vetoed]
- HB 2417 would have allowed pregnant women to drive in the carpool lane.<sup>13</sup>
- HB 2427 would have increased penalties for perpetrators of domestic violence against pregnant victims.<sup>14</sup> [Vetoed]

### MAP of U.S. Fetal Personhood Laws as of March 2024<sup>15</sup>

■ Enacted into law ■ Bill in motion ■ Blocked in court



Personhood bills as of March 28.

IVF carve-out. Four of Arizona’s Republican representatives in the U.S. House including Rep. Andy Biggs, Rep. Elijah Crane, Rep. Paul Gosar, and Rep. Debbie Lesko voted for the Life at Conception Act (2023).<sup>17</sup> The Life at Conception Act provides protections for fetuses at every stage, resulting in the banning of all abortions and IVF.

The terms “human person” and “human being” include each and every member of the species homo sapiens at all stages of life, including the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.<sup>18</sup>

## Life at Conception Act

In February 2024, in the wake of backlash to the Alabama Supreme Court ruling, which ruled that frozen embryos are children and individuals can be held liable for destroying the embryos, Republicans came out in full force stating they support IVF. They seemed to have forgotten co-sponsoring the Life at Conception Act (2023) just last year.<sup>16</sup>

The U.S. House version of the Life at Conception Act included a fetal personhood statement without an

## Bipartisan support for IVF protection

The Navigator Research poll conducted in March 2024 found bipartisan majorities support Congress passing a national law protecting access to IVF, with 68% supporting, 15% not sure, and 17% opposed. Democrats support IVF access with 77% supporting, 10% not sure, and 13% opposed. Republicans support IVF access with 61% supporting, 18% not sure, and 21% opposed.<sup>19</sup> In the same poll, Independents were asked who they trust more to protect access to IVF Biden and the Democratic party or the Republican party. Independents responded with 51% Biden and the Democratic Party, 19% don't know, and 30% the Republican Party.<sup>20</sup>

## Democrats support families by protecting access to IVF

Sen. Tammy Duckworth reintroduced her Right to Build Families Act in January 2024. She originally introduced the Act in 2022.<sup>21</sup> Sen. Duckworth's bill was blocked by Republican Sen. Cindy Hyde-Smith.<sup>22</sup> Sen. Murray introduced a bill in February 2024 to expand access to IVF for members of the military, but it was blocked by Republican Sen. Lankford

On June 6, 2024, Democrats in the U.S. Senate introduced the Right to IVF Act. It is a comprehensive bill intended to expand and protect Americans' access to IVF. Democrats and two Republicans supported the bill. Forty-seven Republicans voted against the bill. The bill failed in the Senate.<sup>23</sup>

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<sup>1</sup> <https://www.murray.senate.gov/senate-republicans-block-murray-and-duckworth-bill-to-protect-ivf-after-flurry-of-republican-statements-expressing-alleged-support-for-ivf/>

<sup>2</sup> <https://www.pregnancyjusticeus.org/rise-of-pregnancy-criminalization-report/#:~:text=Through%20an%20alarming%20combination%20of,criminalized%20but%20for%20the,ir%20pregnancies>

<sup>3</sup> <https://www.legis.ga.gov/api/legislation/document/20192020/187013>

<sup>4</sup> <https://legiscan.com/AZ/bill/SB1457/2021>

<sup>5</sup> <https://www.scientificamerican.com/article/how-abortion-medications-differ-from-plan-b-and-other-emergency-contraceptives/>

<sup>6</sup> <https://azmirror.com/2023/02/06/gop-leaders-ask-to-intervene-in-arizona-abortion-lawsuit/>

<sup>7</sup> <https://www.azleg.gov/legtext/55leg/1R/bills/SB1457P.pdf>

<sup>8</sup> <https://www.azleg.gov/legtext/55leg/1R/bills/SB1457P.pdf>

<sup>9</sup> <https://legiscan.com/AZ/text/SB1457/id/2377031>

<sup>10</sup> <https://azmirror.com/briefs/house-republicans-pass-bill-that-could-codify-fetal-personhood/>

<sup>11</sup> <https://apps.azleg.gov/BillStatus/BillOverview/78615?SessionId=127>

<sup>12</sup> <https://www.azleg.gov/legtext/56leg/1R/bills/HB2502P.htm>

<sup>13</sup> <https://apps.azleg.gov/BillStatus/BillOverview/78525?SessionId=127>

<sup>14</sup> <https://apps.azleg.gov/BillStatus/BillOverview/78545?SessionId=127>

<sup>15</sup> <https://www.washingtonpost.com/nation/2024/03/29/fetal-personhood-laws-states-abortion/>

<sup>16</sup> <https://www.washingtonpost.com/politics/2024/02/25/ivf-republicans-legislation/>

<sup>17</sup> <https://www.congress.gov/bill/118th-congress/house-bill/431/cosponsors?pageSort=alphaByState>

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- <sup>18</sup> <https://www.congress.gov/bill/118th-congress/house-bill/431/cosponsors?s=1&r=1&q=%7B%22search%22%3A%22H.R.+431%22%7D>
- <sup>19</sup> <https://navigatorresearch.org/wp-content/uploads/2024/03/Navigator-Update-03.21.2024.pdf?emci=634abfd6-48e6-ee11-aaf0-002248223794&emdi=e97e76b1-67e7-ee11-aaf0-002248223794&ceid=841932>
- <sup>20</sup> <https://navigatorresearch.org/wp-content/uploads/2024/03/Navigator-Update-03.21.2024.pdf?emci=634abfd6-48e6-ee11-aaf0-002248223794&emdi=e97e76b1-67e7-ee11-aaf0-002248223794&ceid=841932>
- <sup>21</sup> <https://www.duckworth.senate.gov/news/press-releases/new-duckworth-murray-wild-bill-would-protect-right-to-access-ivf-other-assisted-reproductive-technology-for-every-american>
- <sup>22</sup> <https://www.newsfromthestates.com/article/us-senate-republican-blocks-legislation-protecting-vitro-fertilization>
- <sup>23</sup> <https://www.washingtonpost.com/politics/interactive/2024/06/13/senate-vote-right-to-ivf-bill/>