PROTECTING FERTILITY HEALTHCARE
Delaware

WHY DOES FERTILITY HEALTHCARE NEED PROTECTION?

Fertility healthcare may be at risk in Delaware, depending on the language used in bills or laws passed after the reversal of Roe v. Wade. Assisted Reproductive Technology (ART), such as In Vitro Fertilization (IVF), involves fertilization of eggs in a lab to make embryos for transfer to the uterus to help people conceive. If a bill or law defines an embryo as a person, this can create significant issues for physicians and patients, since most embryos are not biologically capable of becoming a healthy baby. Giving embryos the legal status of a person can potentially make fertility care inaccessible in Delaware. The people of Delaware have used IVF to conceive over 300 babies in 2019 alone! Without access to safe and effective IVF, many of these families would not exist today. 11% of American women and 9% of American men of reproductive age experience fertility challenges. IVF is one of the safest and most effective ways to treat infertility. Personhood laws will be a significant barrier to many people trying to have a family.

HOW CAN DELAWARE PROTECT ACCESS TO FERTILITY TREATMENTS?

To ensure fertility treatments remain available in Delaware, patients and providers need to be protected from criminal/civil action should an embryo or pregnancy not result in a live birth. Legislative language related to reproductive health needs to protect the patient and provider when:

• an embryo or fetus does not survive genetic testing
• a patient experiences a loss of pregnancy including stillborn or ectopic pregnancy
• a patient makes decisions pertaining to the usage of their embryo(s)
• a healthcare agent/proxy/surrogate/guardian is acting on behalf of a pregnant person
• a practitioner is providing life-saving care to a pregnant person
• a practitioner is providing routine medical care for an abnormal pregnancy, including ending a pregnancy
### IMPACT OF FERTILITY CARE ACCESS ON CONSTITUENTS

<table>
<thead>
<tr>
<th>WITHOUT BENEFITS</th>
<th>WITH BENEFITS</th>
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<tbody>
<tr>
<td><strong>OUTCOME COSTS</strong></td>
<td><strong>HIGH RISK PREGNANCIES</strong></td>
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<td>Increased risk of complicated pregnancy and outcomes</td>
<td>Timely and appropriate healthcare optimizes health and cost outcomes</td>
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<td>Costs related to disabilities, occupational and physical therapies, surgeries, etc.</td>
<td>Premature-related costs are dramatically reduced</td>
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<td>Stress on relationships with partner, family, and friends</td>
<td>Supportive, healthy relationships</td>
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<td>Depression and anxiety associated with untreated infertility</td>
<td>Achieving family-building goals increases morale and satisfaction</td>
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### COMPANIES SUPPORTING FERTILITY HEALTHCARE

- Adobe
- Facebook
- Apple
- Bank of America
- CVS Pharmacy
- Amazon
- GitHub
- Doordash
- TJX
- The TJX Companies, Inc.

> Providing fertility health benefits is about offering timely and appropriate healthcare to increase the number of safe pregnancies and healthy babies.

**Davina Fankhauser**
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For further discussion or language clarification, please contact **Davina Fankhauser, Fertility Within Reach**, admin@fertilitywithinreach.org and/or **Catherine Tucker, J.D., New Hampshire Surrogacy Law**, catherine@nhsurrogacy.com.

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**Delaware REFERENCES**