

# Protecting Fertility Treatment & Building Families Post-Dobbs Decision

IN 2019,  
APPROXIMATELY  
211 BABIES  
WERE BORN IN KENTUCKY  
WITH THE HELP OF  
ASSISTED REPRODUCTIVE  
TECHNOLOGY (ART):

Center for Disease Control  
and Prevention  
ART Success Rates

## WHY DOES FERTILITY HEALTHCARE NEED PROTECTION?

**Fertility healthcare may be at risk in Kentucky**, 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 Kentucky.

**The people of Kentucky have used IVF to conceive over 200 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.<sup>2</sup> 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 KENTUCKY PROTECT ACCESS TO FERTILITY TREATMENTS?

To ensure fertility treatments remain available in Kentucky, 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

### WITHOUT BENEFITS

Increased risk of complicated pregnancy and outcomes

Costs related to disabilities, occupational and physical therapies, surgeries, etc.

Stress on relationships with partner, family, and friends

Depression and anxiety associated with untreated infertility

HIGH RISK PREGNANCIES

LONG-TERM CARE OF PREMATURE BABIES

FAMILY RELATIONSHIPS

MENTAL HEALTH

### WITH BENEFITS

Timely and appropriate healthcare optimizes health and cost outcomes

Premature-related costs are dramatically reduced

Supportive, healthy relationships

Achieving family-building goals increases morale and satisfaction

## COMPANIES SUPPORTING FERTILITY HEALTHCARE<sup>3</sup>



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

**Davina Fankhauser**  
Co-Founder & Executive Director,  
Fertility Within Reach



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

#### Kentucky REFERENCES

- Center for Disease Control and Prevention. Assisted Reproductive Technology (ART) Data, 2019.
- "How Common Is Infertility?" Eunice Kennedy Shriver National Institute of Child Health and Human Development, U.S. Department of Health and Human Services, 2018, [www.nichd.nih.gov/health/topics/infertility/conditioninfo/common](http://www.nichd.nih.gov/health/topics/infertility/conditioninfo/common).
- Hutto, Cara. "47 Companies That Offer Awesome Fertility Benefits | InHerSight." InHerSight.com, 24 Sept. 2021, [www.inhersight.com/blog/parenting/companies-with-fertility-benefits](http://www.inhersight.com/blog/parenting/companies-with-fertility-benefits).



**Fertility Within Reach.**  
ADVOCATING FOR FERTILITY HEALTH BENEFITS