PROTECTING FERTILITY HEALTHCARE
South Dakota

WHY DOES FERTILITY HEALTHCARE NEED PROTECTION?
Fertility healthcare may be at risk in South Dakota, 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 South Dakota.

The people of South Dakota have used IVF to conceive over 140 babies in 2019 alone! Without access to safe and effective IVF, many of these families would not exist today.

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 SOUTH DAKOTA PROTECT ACCESS TO FERTILITY TREATMENTS?
To ensure fertility treatments remain available in South Dakota, 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

IN 2019,
APPROXIMATELY
141 BABIES WERE BORN IN SOUTH DAKOTA
WITH THE HELP OF ASSISTED REPRODUCTIVE TECHNOLOGY (ART):¹

Center for Disease Control and Prevention
ART Success Rates

Fertility Within Reach. Advocating for Fertility Health Benefits
Fertility Protection, South Dakota, Rev 1, 2022
### IMPACT OF FERTILITY CARE ACCESS ON CONSTITUENTS

<table>
<thead>
<tr>
<th>WITHOUT BENEFITS</th>
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<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>
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<td>Costs related to disabilities, occupational and physical therapies, surgeries, etc.</td>
<td><strong>LONG-TERM CARE OF PREMATURE BABIES</strong></td>
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<td>Stress on relationships with partner, family, and friends</td>
<td><strong>FAMILY RELATIONSHIPS</strong></td>
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<td>Depression and anxiety associated with untreated infertility</td>
<td><strong>MENTAL HEALTH</strong></td>
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### COMPANIES SUPPORTING FERTILITY HEALTHCARE

- Adobe
- Facebook
- Apple
- Bank of America
- CVS pharmacy
- Amazon
- GitHub
- Doordash
- TJX

“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 and/or Catherine Tucker, J.D., *New Hampshire Surrogacy Law*, catherine@nhsurrogacy.com.

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**South Dakota REFERENCES**