

# News From The States

## REPRODUCTIVE RIGHTS TODAY

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By Elisha Brown



*Alabama's high court ruled that the destruction of frozen embryos makes fertility clinics liable in wrongful death claims.*

*(Antonio Marquez Ianza/Getty Images)*

Reproductive rights advocates said a decision by the Alabama Supreme Court finding that frozen embryos are “children” could end IVF treatments in the state.

Alabama Reflector reported that the state Supreme Court issued a majority opinion Friday that said destroyed frozen embryos make fertility clinics liable in wrongful death lawsuits.

Justice Jay Mitchell cited the 1872 **Wrongful Death of A Child Act** and a **constitutional amendment voters approved in 2018** that allows the state to “ensure the protection of the rights of the unborn child” in the ruling.

“Nothing about the Act narrows that definition to unborn children who are physically ‘in utero,’” Mitchell wrote. “Instead, the Act provides a cause of action for the death of any ‘minor child,’ without exception or limitation.”

Barbara Collura, the CEO of RESOLVE: The National Infertility Association, told the Reflector the ruling could pave the way for restricting IVF in the state if a fertilized egg is considered a person. “In other words, the rights of those embryos now are no longer in the hands of the people who created them,” Collura said.

**The Alabama case stems from a 2020 incident when a patient who was roaming around a fertility clinic dropped frozen embryos on the floor.** Plaintiffs who stored their embryos in the facility sued the clinic under the state’s Wrongful Death of A Child Act.

A lower court initially dismissed the suit, ruling that embryos are not people or children. But Mitchell disagreed, writing that the law “applies to all children, born and unborn, without limitation.”

Only Justice Greg Cook filed a full dissent. “There is no doubt that the common law did not consider an unborn infant to be a child capable of being killed for the purpose of civil liability or criminal-homicide liability,” he wrote. Cook pressed state lawmakers to weigh in on the issue.

Planned Parenthood Alabama director Stephen Stetson said the ruling could set a “dangerous precedent” for bodily autonomy, health care access and family planning.

“These kinds of decisions represent judicial overreach and are part of a concerted long-term plan to justify government intervention in people’s bodies,” he said.

**THE BEAT** *States Newsroom coverage*

## **How would an abortion referendum in Missouri affect the state’s clinic regulations?**



*A Planned Parenthood clinic in St. Louis, Missouri was the only abortion provider in the state before the U.S. Supreme Court overturned Roe v. Wade.  
(Michael B. Thomas/Getty Images)*

An abortion rights amendment “wouldn’t restore access overnight,” according to [Missouri Independent](#). Targeted regulation of abortion providers, or TRAP laws, impeded abortion care long before the state’s near-total ban took effect in June 2022.

For decades, **clinics had to meet the standards of ambulatory surgical centers**, doctors performing abortions were required to get admitting privileges at nearby hospitals and patients had to wait three days after consultations to get an abortion. **Only five clinics offered abortions by 1999**, according to state data. By the time the U.S. Supreme Court overturned Roe v. Wade nearly two years ago, Planned Parenthood in St. Louis was the lone abortion clinic, according to the Independent.

But language in the ballot measure pushed by **Missourians for Constitutional Freedom** — the group wants to restore access up to fetal viability with exceptions later to save the mother’s life or health — could make restrictions subject to **strict scrutiny**, the highest judicial standard.

Missouri’s Planned Parenthood representatives told the Independent they would work to quickly offer abortions again if the ban is overturned. Still, the amendment wouldn’t automatically repeal older statutes restricting clinics and doctors. “Physicians may not want to jump the gun” should the abortion rights measure pass, said Mary Ziegler, a University of California-Davis law professor.

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## Doulas help improve birth outcomes for Medicaid

## recipients, study shows

Pregnant people who are on Medicaid and have doulas are **less likely to have C-sections or experience postpartum anxiety or depression**, according to a [study](#) published last week by Elevance Health, an insurance company that operates Medicaid managed care plans. The study's findings add to research that shows the positive benefits of doula care on maternal health, [NC Newsline](#) reported.

At least a **dozen states and Washington, D.C. reimburse doula services through Medicaid**, according to the report. North Carolina lawmakers have introduced several bills that would enact the policy, but the legislation hasn't been successful. However, the state health agency has funded small pilot projects that pair low-income mothers with doulas. Some North Carolina doulas are concerned that Medicaid reimbursement rates would be below the living wage.

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## Kansas Republican proposes nursery in women's prison

The only women's prison in Kansas could build a nursery under new legislation. Republican Sen. Kristen O'Shea's bill would create a nursery at Topeka Correctional Facility where some incarcerated women could live with their babies for up to three years, [Kansas Reflector](#) reported. O'Shea said inmates who give birth usually have **24 to 48 hours with their newborn** before they're separated.

To be eligible for the pilot program, an incarcerated woman who gave birth after sentencing or while in custody must have no more than three years left in her sentence. Anyone convicted of "violent or dangerous crimes would be automatically disqualified," according to the Reflector. Prison officials could also set various requirements if the bill becomes law.

**THE PULL** *Commentary from Oklahoma*

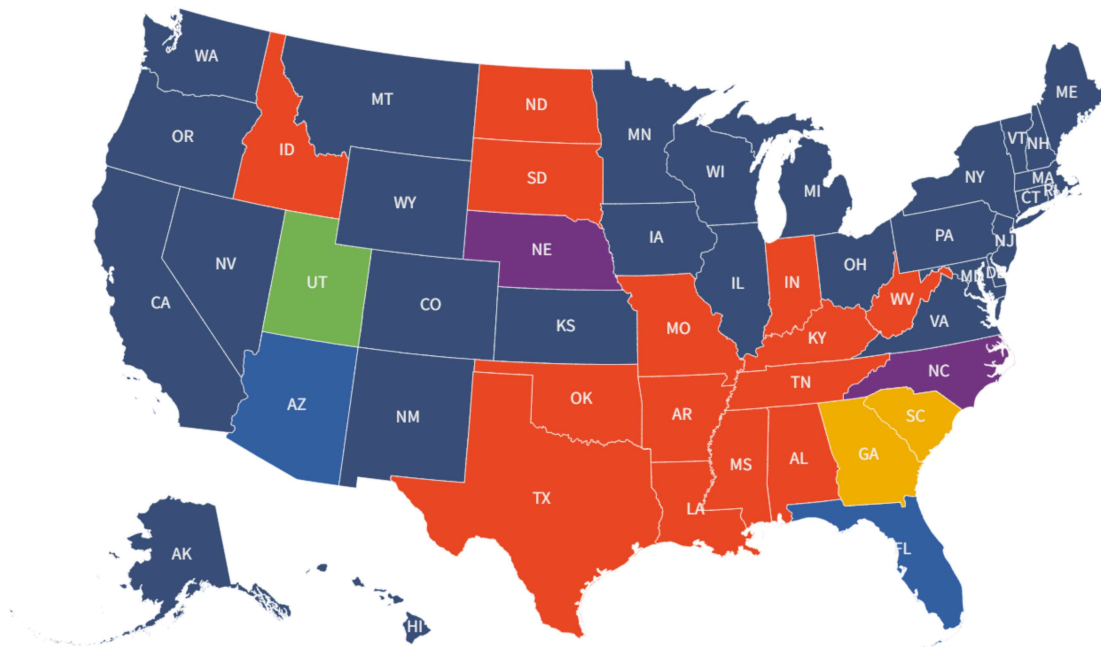
"We can't ban all abortions and then ban access to contraceptive medications and medical devices that all Oklahomans — including men who don't want to father a child — rely on to stop unwanted pregnancies. Yet it appears some of our lawmakers have donned rose-colored glasses and buried their heads in the sand." — **Janelle Stecklein**, editor-in-chief, [Oklahoma Voice](#)

**THE PULSE** *Reproductive rights news across the country*

- Georgia House lawmakers advanced a GOP-sponsored bill to create a new state commission on maternal and infant health. ([WABE](#))

- In Texas, maternity care deserts benefit from the federal Nurse-Family Partnership program, which provides prenatal and postpartum support to first-time mothers. ([Texas Monthly](#))
- Former President Donald Trump’s reported support of a 16-week abortion ban would do little to limit abortion: Just 4% of abortions occurred at 16 weeks of pregnancy or later in 2022, according to the latest federal data. ([The New York Times](#))
- The Biden administration is seeking to stop funding intended for low-income families from going to anti-abortion crisis pregnancy centers. ([Pittsburgh Post-Gazette](#))
- National advocacy groups that back reproductive rights are giving money to abortion ballot measure campaigns that they say have a chance of succeeding based on polling data. ([Politico](#))

**STATE BY STATE** *Abortion access in the U.S.*



Open this interactive map in your browser

Track state-level developments on reproductive rights anytime at [News From The States](#). Send tips and thoughts to [ebrown@statesnewsroom.com](mailto:ebrown@statesnewsroom.com), and follow her on X [@elishacbrown](#).

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