



CONSUMER ALERT

Understanding Arizona Law Regarding In Vitro Fertilization (IVF)

MARCH 2024

REPRODUCTIVE RIGHTS UNIT
OFFICE OF THE SOLICITOR GENERAL
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Consumer Alert:

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With all the discussion about in vitro fertilization (IVF) in the news over the last several weeks, patients in Arizona may be wondering whether they can still plan for and undergo IVF to grow their families.

IVF is still legal in Arizona and currently unaffected by rulings in other parts of the country. But, like many topics related to reproductive healthcare, this remains a fluid area of the law that might change in the future.

Why has IVF been in the news?

In February 2024, the Alabama Supreme Court decided that Alabama's wrongful death statute applies to extrauterine embryos, meaning embryos that have not been implanted in a patient's uterus. In other words, the court held that an embryo is a person, allowing someone to sue for wrongful death if an embryo is destroyed.

After that court decision, several IVF providers in Alabama paused their services because of uncertainty and the risk of liability. The Alabama Legislature has been working to pass a law to protect IVF in that state. Congress recently failed to pass a bill that would protect IVF for the whole country.



Is IVF legal in Arizona?

IVF is currently legal in Arizona. The Alabama Supreme Court’s ruling does not change Arizona law.

Right now, Arizona’s statutory definition of “abortion” expressly excludes the “conception or the implantation of a fertilized ovum in the uterus.” Meaning, Arizona’s abortion statutes do not apply to the forming and implantation of an embryo.

In 2021, the Arizona Legislature passed a statute directing that Arizona laws must be construed to acknowledge that “an unborn child at every stage of development” has the same “rights, privileges and immunities available to other persons.” Although this bears some similarity to Alabama laws that led to the recent court decision in that state, the Arizona statute also says it does not create a right to sue a person who lawfully performs IVF procedures. Additionally, parties have sued to challenge the statute’s constitutionality, and the statute is on hold while the case is pending.

Bottom line: IVF is legal right now, but the law in this area could change depending on litigation about current Arizona law and any additional laws the Arizona Legislature or Congress might pass.

Where can I track changes in the law?

To learn more about Arizona’s laws related to reproductive healthcare, ongoing litigation, and the answers to frequently asked questions, Arizona families can visit the Attorney General’s Reproductive Rights webpage:

www.azag.gov/issues/reproductive-rights

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