

# Impact of Alabama Supreme Court ruling against in vitro fertilization spreads across the US

Kevin Reed  
24 February 2024

Less than a week after the Alabama Supreme Court declared a frozen embryo to be a child with legal rights, the nationwide impact of the ultra-right and anti-science ruling is being felt. In many cases, women and families will be forced to delay plans to begin the in vitro fertilization (IVF) process or will be prevented from pursuing it altogether.

While some fertility clinics in Alabama have stated that they are pausing IVF services, medical professionals in other states have said they fear similar restrictions will be placed upon them by right-wing courts and politicians who support the unconstitutional violation of the separation of church and state at the heart of the Alabama ruling.

As reported by the WSWs on Thursday, the University of Alabama at Birmingham (UAB), the site of the state's largest hospital system, halted all IVF procedures out of concern that "our patients and doctors could be prosecuted criminally."

In a prepared statement, UAB spokeswoman Hannah Echols said:

We are saddened that this will impact our patients' attempt to have a baby through IVF, but we must evaluate the potential that our patients and our physicians could be prosecuted criminally or face punitive damages for following the standard of care for IVF treatments.

Meanwhile, companies that store eggs and embryos have been taking calls from people who have used the services of firms in Alabama and are requesting that their frozen embryos be transferred to other states.

Louis Villalba, chief executive of TMRW Life Sciences Inc., told the *Wall Street Journal* that people have called the Indianapolis-based firm asking if their embryos can be moved from Alabama to its facilities in Colorado or New

York.

Villalba said TMRW, which promotes itself as providing "the first automated cryo specimen management system for IVF to provide safety and security" for embryos, would accept the transfers. However, outside of storage of the embryos, Villalba said that the company would not "be able to provide any legal counsel to patients until there is clarity at the state level from Alabama about how and when they are going to enforce this."

In its unprecedented 138-page ruling on February 16, the Alabama Supreme Court overturned a lower court ruling and said that fertilized embryos are "extrauterine children" who are entitled to the same protection under state law as any child. The ruling said that the state's 1872 law allowing parents to sue over the Wrongful Death of a Minor could be applied to embryos created by IVF. The court held that a firm which had accidentally destroyed embryos could be held criminally liable for the death of an unborn child.

Every year, as many as 100,000 babies are born in the US using the IVF procedure. Mothers and couples often seek the IVF process due to infertility or to avoid passing on genetic conditions to their children.

A marvel of modern science, IVF involves multiple steps that begin with the patient taking hormones for a 10-to-12-day period. The hormone treatment primes multiple eggs to maturity inside the ovary, while the patient is monitored nearly every day to determine at what point the eggs are ready to be retrieved.

The eggs are retrieved by means of a medical procedure in which the patient is anesthetized. The eggs are fertilized with sperm and grown in a lab for about three to seven days until they reach the early blastocyst stage—the point at which there are two different cell layers, one that will become the placenta and one that will become the fetus.

At this point, the embryo is either transferred to the woman's uterus or frozen for future use. In some cases, both are done until a viable pregnancy is achieved.

As Dr. Eve Feinberg, a reproductive endocrinologist and infertility specialist at Northwestern University in Chicago, told National Public Radio (NPR) on Friday, it is common for fertilized eggs not to survive and, in the lab, only 55 percent of fertilized eggs achieve the blastocyst stage.

Feinberg continued:

By definition, 45 percent of all embryos grown in the laboratory “die.” And the charge of wrongful death can now be applied. As a reproductive specialist, that idea is terrifying. Who wants to assume that risk?

The IVF process is very expensive, Feinberg said, costing anywhere from \$12,000 to \$24,000, depending on where the process is done. While many embryos that are frozen never get used, the Alabama ruling raises questions about what is to be done with these, given that they are often donated for research or destroyed.

Mary Ziegler, a law professor at the University of California, Davis, speaking on NPR, asked whether every embryo created in a particular IVF cycle had to be implanted. “If you were not allowed to create more than one embryo per cycle, that’s likely to make IVF even more financially out of reach for people who don’t have insurance coverage and who struggle to pay that hefty price tag,” Ziegler said.

Speaking during an online Tennessee evangelical broadcast hours after the ruling was issued, Alabama Supreme Court Chief Justice Tom Parker suggested that America was founded as a Christian nation and restated his advocacy of the “Seven Mountains Mandate,” which asserts that right-wing Christians are meant to rule over seven key areas of American life, including media, business, education and government.

Parker said:

God created government, and the fact that we have let it go into the possession of others, it’s heartbreaking. That’s why he is calling and equipping people to step back into these mountains right now.

Parker was the founding executive director of the Alabama Family Alliance in 1989, a right-wing think tank. He was elected to the state Supreme Court in 2004 and reelected in 2010 and 2016. In 2018, Parker won the Republican

nomination for chief justice and defeated Democrat Bob Vance in the general election in November.

In 2004, Parker was criticized by the Southern Poverty Law Center for distributing Confederate flags. He has been photographed with leading members of white supremacist organizations such as Leonard Wilson, a board member of the Council of Conservative Citizens, and Mike Whorton, a leader of the League of the South. Parker also attended a party in Selma commemorating the birthday of Confederate General Nathan Bedford Forrest, founder of the Ku Klux Klan.

Like the US Supreme Court decision in 2022 overturning the constitutionally protected right to abortion, the reactionary decision by Alabama’s highest state court is opposed by a large majority of the US population.

Well aware of this political fact—which the Democrats intend to exploit in the 2024 election cycle—the Republican Party and Donald Trump are seeking to distance themselves from the Alabama ruling. In a hastily prepared statement on his Truth Social platform, the fascist presidential candidate and former president said, “I strongly support the availability of IVF for couples who are trying to have a precious baby.”

At 5:05 pm on Friday, Alabama Republican Senator Tommy Tuberville posted to Twitter/X:

I’ve spoken with Alabama Speaker of the House @RepLedbetter and he’s assured me that a bill to protect IVF will be taken up immediately. We want everyone to have the opportunity to have kids. IVF will remain legal and available in Alabama.



To contact the WSWS and the Socialist Equality Party visit:

**[wsws.org/contact](https://wsws.org/contact)**