



## The Dangers of Granting Legal Rights to Fetuses, Embryos, and Fertilized Eggs

*Anti-abortion extremists have worked for decades to incorporate fetal personhood ideology into different areas of law in their efforts to restrict or ban various types of reproductive healthcare, particularly abortion care. As fetal personhood increasingly influences judicial decisions, laws, statutes, and state constitutional amendments, it will continue to lead to criminal prosecutions of pregnant people, forced medical interventions during pregnancy, limiting access to contraceptives, threats to In Vitro Fertilization (IVF), and denials to life-saving health care.*

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### BACKGROUND

Fetal or prenatal personhood is a radical legal doctrine that seeks to endow fertilized eggs, embryos, and fetuses with full rights and legal protections.<sup>1</sup> Anti-abortion extremists have worked for decades to incorporate fetal personhood ideology into different areas of law in their efforts to restrict or ban various types of reproductive healthcare, particularly abortion care. Fetal personhood laws and regulations can take various forms, such as constitutional amendments, anti-abortion laws, wrongful death

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<sup>1</sup> [Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice](#). Pregnancy Justice, 23 September 2024.

laws, fetal homicide laws, and legal definitions of “person” in statutes that include fertilized eggs and embryos that apply across state laws.<sup>2</sup>

While personhood laws are often used to attack abortion care, fetal personhood laws and arguments will also spillover to other reproductive health care, and have direct impacts on embryonic stem cell research, and treatments for cancer and other conditions.<sup>3</sup> Experts argue that the concept of fetal personhood could justify imposing a national ban on abortion care, contraception, in vitro fertilization (IVF), and any other reproductive healthcare that is deemed to endanger an embryo or fetus.<sup>4</sup>

Fetal personhood laws blatantly prioritize fetal life over the health and safety of pregnant people, robbing them of their ability to make decisions about their own bodies and imposing government surveillance over pregnant people. Under the guise of protecting fetal life, these laws increase the criminal prosecutions of pregnant people for actions that may pose a risk of harm to an embryo or fetus, forced medical interventions during pregnancy, and denials of life-saving medical care for pregnant people.<sup>5</sup> Because of these laws, pregnant and postpartum people have increasingly been charged with murder or manslaughter for experiencing pregnancy loss or self-managing an abortion. Additionally, many pregnancy-related arrests have stemmed from pregnant people testing positive for a substance and subsequently being charged with chemical endangerment.<sup>6</sup> These laws disproportionately impact and harm communities of color, LGBTQIA+ folks, and low-income people.<sup>7</sup>

Fetal viability laws are also closely related fetal personhood laws. Fetal viability is thought to be when the fetus might survive outside of the uterus; however, although

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<sup>2</sup> [Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice](#). Pregnancy Justice, 23 September 2024.

<sup>3</sup> “[Issue Brief: Personhood Measures](#),” the American College of Obstetricians and Gynecologists (ACOG), June 2024. ACOG “opposes any proposals, laws, or policies that attempt to confer personhood upon a zygote, embryo, or fetus; so-called personhood laws and their many iterations; and any other statutes that attach criminal liability to the conduct of pregnant people with respect to their own health or the conduct of clinicians providing care. ACOG urges the repeal and reversal of these policies because of the harm they inflict.” See “[Position Statement: ACOG Statement on ‘Personhood’ Measures](#),” ACOG, 9 November 2022.

<sup>4</sup> McGovern, T., Memaj, I., & Rivera, L. [Fetal personhood: What happens when the rights of the “fertilized egg” supersede the rights of the mother](#). *BMJ* 2025.

<sup>5</sup> [Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice](#). Pregnancy Justice, 23 September 2024.

<sup>6</sup> [Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice](#). Pregnancy Justice, 23 September 2024.

<sup>7</sup> From 2000 to 2020, there were 61 cases across 26 states of people criminally investigated or arrested for allegedly ending their own pregnancy or helping someone to do so. See Laura Huss, Farah Diaz-Tello, & Goleen Samari, “[Self-Care. Criminalized: The Criminalization of Self-Managed Abortion from 2000 to 2020](#),” *if/when/how*, 30 October 2023.

viability indicates a capacity for life, it does not guarantee it. Fetal viability laws enable the criminalization of pregnant people by giving the government decision-making power over a pregnant person's care, and giving embryos and fetuses legal rights, which makes a pregnant person's behavior punishable for anything that is deemed to hurt a fetus. These laws control, punish, and shame pregnant people.<sup>8</sup>

## **POLICY AND LEGAL LANDSCAPE**

[Seventeen states](#) have already established fetal personhood by law or judicial decision to apply to criminal and/or civil laws, and at least [24 states](#) include personhood language in anti-abortion laws. There are also [38 states](#) that could authorize homicide charges to be brought for causing the loss of a pregnancy (fetal homicide laws). These laws were originally put into place as a way to protect pregnant people from violence caused by another person; however, they have been manipulated to criminalize people for their own pregnancy loss.<sup>9</sup> Post-*Dobbs*, more states are pursuing fetal personhood laws in various forms. Additionally, across the United States, postpartum people have been investigated, arrested, and prosecuted for how they navigate the aftermath of pregnancy loss.<sup>10</sup>

The 2024 Alabama Supreme Court ruling in [LePage v. Mobile Infirmary Clinic](#) that frozen human embryos are “extrauterine children,” brought the movement to establish fetal personhood rights into national focus. The court ruled that someone who destroys embryos can be civilly sued for wrongful death under Alabama's Wrongful Death of Minors Act, which opens the door to applying legal protections to frozen embryos.<sup>11</sup> The *LePage* decision will have implications beyond Alabama's borders and is likely to encourage litigation involving IVF and other fertility treatments to be brought in other states, especially under the current post-*Dobbs* Trump administration. Although the *LePage* ruling was the first decision to uphold a wrongful death cause of action for the loss of embryos created through IVF, at least 44 states and Washington D.C. have wrongful death laws that could be interpreted to apply to fetuses.<sup>12</sup>

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<sup>8</sup> [The Role of the Viability Line in Pregnancy Criminalization](#). Pregnancy Justice, 2 May 2025.

<sup>9</sup> [Legal Landscape](#), Pregnancy Justice, Accessed: 19 February 2026. See also [Who Do Fetal Homicide Laws Protect? An Analysis for a Post-Roe America](#), Pregnancy Justice, 18 August 2022.

<sup>10</sup> [After Pregnancy Loss](#), Pregnancy Justice, 29 January 2026.

<sup>11</sup> Alicia Bannon, “[Alabama IVF Ruling Puts Spotlight on Fetal Personhood Rights](#),” *State Court Report*, 29 February 2024.

<sup>12</sup> [Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice](#). Pregnancy Justice, 23 September 2024.

Laws and policies that define personhood as starting at fertilization may also be used to limit access to contraceptives and other reproductive care. While medical organizations generally define pregnancy to begin at the implantation of a fertilized egg, a number of bans on abortion care define pregnancy to begin at fertilization, and “fetus” and “unborn children” as living humans from fertilization until birth.<sup>13</sup> If abortion bans establish that a pregnancy exists from the moment of fertilization, preventing the implantation of a fertilized egg could be construed as terminating a pregnancy and could conflate emergency contraception with abortion care. This kind of definition could potentially be used to ban or restrict contraceptive methods that people incorrectly believe end a pregnancy.<sup>14</sup>

## **SURVEY**

A 2025 [survey](#) from [Pregnancy Justice](#) and [National Women’s Law Center](#) (NWLC) reveals that a majority of likely voters oppose policies that grant legal rights to fertilized eggs, embryos, and fetuses. While the research found that many likely voters were initially not strongly opposed to “fetal personhood,” opposition to it rapidly increased once voters learned this strategy leads to the criminalization of pregnancy loss, denial of emergency medical care, and broader threats to reproductive freedom.

### **Key findings from the poll include:**

- Two-thirds of voters had not heard, seen, or read anything in the news about “fetal personhood.” After learning more, opposition to granting legal rights to embryos and fetuses rose to 59% by the end of the survey, a full 25-point gap over those who support it.
- Over two-thirds of voters opposed using fetal “rights” to criminalize miscarriage or deny emergency medical care to pregnant people.
- Widespread fear of broader impacts:
  - 68% believe granting legal rights to embryos and fetuses could lead to a nationwide abortion ban.
  - 66% believe these laws would make OB-GYNs afraid to provide basic care out of fear of prosecution.
- More than three-quarters of voters say it is extremely or very important to protect the rights of people who are pregnant or could become pregnant.

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<sup>13</sup> “[reVITALize: Gynecology Data Definitions](#),” American College of Obstetricians and Gynecologists, Accessed 19 February 2026.

<sup>14</sup> [The Right to Contraception: State and Federal Actions, Misinformation, and the Courts](#), KFF, 23 May 2024.

## MESSAGING

Tip: Instead of using the phrase “fetal personhood” or “prenatal personhood,” explain the legal strategy when talking about its harms.

- As women and pregnant people across the country are begging courts and authorities to recognize their personhood in order to receive life- and health-saving care, politicians are giving rights to fetuses.
- There is a **difference between personal beliefs and laws**, and my personal beliefs on when life begins do not mean the law should give legal rights to embryos or fetuses.<sup>15</sup>
- Giving rights to fetuses is **part of a long-term strategy** that is meant to undermine bodily autonomy and abortion rights, and allows for the criminalization of people because of their pregnancy outcomes.
- Giving rights to fetuses **cannot coexist with the full personhood of those who are pregnant**, or even those not yet pregnant but who wish to be. It increases the ability of the state to police and criminalize pregnant people, their behavior, and their pregnancy outcomes.<sup>16</sup>
- Giving rights to fetuses **takes away our ability to make our own decisions about our bodies, lives, and futures**, and opens the door to government intrusion into pregnancy.<sup>17</sup>
- Giving rights to fetuses **lays the groundwork to arrest**, prosecute, and convict the patient accessing abortion care.<sup>18</sup>
- Fetal personhood laws put all family-making and family planning at risk. Giving rights to embryos **endangers access to reproductive health care for people who rely on IVF to build their families**, including people navigating infertility, LGBTQIA+ families, and non-traditional families.

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<sup>15</sup> [How to Talk About the Legal Strategy to Give Rights and Benefits to Fetuses and Embryos](#), [Pregnancy Justice](#) and [National Women's Law Center](#), April 2025.

<sup>16</sup> Lourdes A. Rivera, “[Opinion: What the Alabama Supreme Court's Decision Says About Our Failing Democracy](#),” 27 February 2024.

<sup>17</sup> [How to Talk About the Legal Strategy to Give Rights and Benefits to Fetuses and Embryos](#), [Pregnancy Justice](#) and [National Women's Law Center](#), April 2025.

<sup>18</sup> Lynn Paltrow, “[After Alabama: Making IVF available won't stop criminalization](#),” *Abortion, Every Day*, 1 March 2024.

- Each pregnancy is unique, with complex circumstances that can change at any point along the way. This is why **one-size-fits-all laws regulating pregnancy do not work**. People need the freedom to make decisions, including whether to use IVF to become pregnant, use birth control to prevent pregnancy, or have an abortion to end a pregnancy, without the government interference. Giving rights to fetuses and embryos would take away this freedom and allow the government to interfere in people’s personal decision making. We should put the pregnant person in charge because it’s wrong when others make those decisions.<sup>19</sup>
- Efforts to define “personhood” from the moment of conception have **far-reaching and harmful consequences** because any act that involves reproduction would have the potential to violate the rights and interests of a fetus, embryo, or even a fertilized egg. Sweeping consequences can lead to:
  - Banning birth control options like the pill, IUDs, and emergency contraception.
  - Banning some stem cell research being used to find cures for chronic disease and disabilities.
  - Denying access for cancer treatments if the patient is pregnant.
  - Impacting thousands of laws and creating a legal nightmare, such as criminalizing people for their actions while they are pregnant, when property rights and inheritance rights are granted, and who has standing to file a lawsuit.

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<sup>19</sup>[How to Talk About the Legal Strategy to Give Rights and Benefits to Fetuses and Embryos](#), Pregnancy Justice and National Women’s Law Center, April 2025.

## POLICY RECOMMENDATIONS

*The example bills and initiatives below are a reference to be used within a [collaborative governance](#) model in order to secure and sustain meaningful racial, social, and economic justice outcomes. We invite values-aligned state legislators to partner with issue advocates and grassroots leaders. Together, they can commit to centering the people most impacted by systemic and structural oppression to transform the conditions of power at the state level.*

### Proactive Legislation

#### Recommendations for fighting against the threat of fetal personhood

Some states have passed laws to protect reproductive freedom by codifying the right to access contraception, abortion, IVF, and other related reproductive and pregnancy care, while others have used ballot initiatives to amend their state constitutions. Below are model bills from [SiX's policy agenda](#) and examples of state bills.

- [Model Bill: Right to Reproductive Freedom](#) (SiX)– States have the ability to codify the right to reproductive freedom, including the right to access contraception, abortion, and other related pregnancy care. Some states have passed laws to create this protection, while others have used ballot initiatives to amend their state constitutions. The model bill language provided is intended to create broad state protections for reproductive rights. The model bill reflects language codified by states such as [Colorado](#), [Washington](#), [Oregon](#), and [Vermont](#).
- [Model Bill: Right to Fertility Treatment Act](#) (SiX)– Despite significant advances to fertility treatments, such as egg freezing and In Vitro Fertilization (IVF), access to and affordability of this care is severely lacking in the United States. This model bill seeks to center the autonomy of birthing people to make healthcare decisions for themselves and their families that best meet their needs, including access to healthcare when trying to conceive.
- Pennsylvania introduced [HB 1140](#) (2025-2026), “The Contraceptive Access for All Act,” which requires health insurers to cover contraceptive services without cost-sharing, with provisions for religious exemptions and confidentiality, and enforces compliance through penalties and reporting.

- Tennessee passed the [Tennessee Fertility Treatment and Contraceptive Protection Act](#) (2025, S.B. 449, 114th Gen. Asm.), which establishes a right to contraception and fertility treatments in the state. This is a meaningful expansion of reproductive freedom given Tennessee's severe abortion restrictions.

## STATE POLICY THREATS

Below are examples of bills introduced in 2025 and 2026 that attempt to insert fetal personhood language in state law.

- Arizona [HB 2043](#) would amend Arizona's first degree murder statute to include unborn children at any stage of development as potential victims, with exceptions for lawful abortion and medical treatment, and retains existing penalties for first degree murder.
- Arizona [HB 2144](#) would consider preborn children eligible children under child support laws.
- Florida [SB 1284](#) / [HB 1517](#) attempts to redefine the definition of personhood through amending wrongful death statutes and wrongful death actions. It would include parents of an unborn child as "survivors" for wrongful death claims, prohibits actions against mothers and medical providers for lawful care, and allows parents to recover damages for mental pain and suffering.
- Florida [SB 164/ HB 289](#) would allow parents to seek damages for the wrongful death of an unborn child, while exempting mothers and compliant medical providers from liability.
- Indiana [HB 1334](#) seeks to amend the Indiana Code concerning criminal law and procedure, with a focus on extending legal protections to unborn children.
- Kansas introduced [HB 2010](#), a total abortion ban that does not include an exception to save the life of the pregnant person despite the Kansas State Supreme Court reaffirming the proactive constitutional amendment passed in 2022. The legislation would give fertilized embryos and fetuses the same rights as people, potentially threatening access to fertility treatments like In Vitro Fertilization.
- Kentucky [HB 523](#) would extend legal protections to fetuses under the state's homicide and assault laws, defining them as individuals from fertilization to live birth and repealing previous fetal homicide statutes.
- Maine [HP 635/LD 975](#) would repeal laws allowing abortion care, criminalize abortion care by redefining "human being" to include fetuses from conception,

and mandates miscarriage reporting while removing abortion care from reproductive health and family planning services.

- Montana [HB 316](#) would amend the Montana Constitution to define “person” as including all stages of human development from conception and would require 2/3 vote in legislature this session and majority vote of voters in the 2026 election.
- North Dakota [HB 1373](#) (North Dakota Century Code) aims to redefine the terms "human being" and "person" to include an "unborn child" in the context of murder, assault, and civil actions for wrongful death.
- Oklahoma [SB 456](#) seeks to extend the definition of homicide to include the “killing of an unborn child,” thereby repealing provisions that previously allowed for abortion care.
- South Carolina [HB 3537](#) would define life as starting at fertilization in state law.
- South Carolina [SB 717](#) would replace the word “fetus” with “preborn human” in state law. It would also require all obstetricians to give state-produced brochures to patients “as early as possible during pregnancy.”
- Wisconsin [SB 553](#) claims to create exceptions for their abortion ban but intends to redefine that life starts at conception.

## RESOURCES

- SiX Video Resource: Conversations with an Expert– [How to talk about ‘Fetal Personhood’ with Pregnancy Justice and National Women’s Law Center](#)
- SiX Video Resource: Repro State Learning Lab– [Unpunish Pregnancy Policy Evaluation Framework](#)
- SiX Video Resource: Repro State Learning Lab– [Pregnancy Criminalization with Dana Sussman from Pregnancy Justice](#)
- [After Pregnancy Loss](#) (Pregnancy Justice)
- [How to Talk About the Legal Strategy to Give Rights and Benefits to Fetuses and Embryos](#) (Pregnancy Justice and National Women’s Law Center)
- [Resisting Criminalization of Reproductive Autonomy: Policy Do’s and Don’ts](#) (Interrupting Criminalization)
- [The Role of the Viability Line in Pregnancy Criminalization](#) (Patient Forward and Pregnancy Justice)
- [Unpunish Pregnancy](#)
- [Voters Oppose “Fetal Personhood” But It’s Quietly Advancing Anyway](#) (Pregnancy Justice)

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