

2024 ELECTION EXPLAINER

How this Election Could Affect Access to IVF

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Americans [overwhelmingly support access](#) to in vitro fertilization (IVF). As a result, both the [Democratic](#) and [Republican](#) presidential candidates have portrayed themselves as protective of this popular reproductive health care. But the Republican Party platform, Republican legislative efforts, and [Project 2025](#)—a presidential transition project led by former Trump Administration officials—reveal persistent party support for “personhood,” a legal theory that advocates extending embryos and fetuses the same legal rights as people. Personhood is fundamentally incompatible with IVF, which generally involves creating more embryos than are used and either freezing or discarding unused embryos. Here is the key evidence showing the Republican Party’s continued endorsement of personhood, how this undermines claims of support for IVF, and how this election could therefore affect access to fertility treatment.



THE REPUBLICAN PARTY’S SUPPORT FOR PERSONHOOD

- In describing its plan for the Department of Health and Human Services under a new Trump Administration, Project 2025 defines life as beginning at conception, unequivocally endorsing “personhood.”¹ The Republican Party platform echoes this support in more coded language, stating: “We believe that the 14th Amendment to the Constitution of the United States guarantees that no person can be denied Life or Liberty without Due Process, and that the States are, therefore, free to pass Laws protecting those Rights.”² This was [understood by many](#) to signal support for personhood, under the theory that the 14th Amendment’s guarantees of due process and equal protection for “any person” define personhood as beginning at conception.

¹The Heritage Foundation, [Mandate for Leadership: The Conservative Promise, Project 2025 Presidential Transition Project](#) (“Project 2025”), at page 489. Former President Trump has recently attempted to distance himself from Project 2025, but CNN [reported](#) that at least 140 people who worked in the Trump Administration worked on Project 2025, including six former Cabinet secretaries and a former deputy chief of staff.

² [Republican National Committee 2024 Platform](#), at 20.

This understanding comports with the [Life at Conception Act](#), legislation endorsed by a majority of House Republicans in January 2023 that would grant legal personhood to fertilized eggs. The Act states that its purpose is “to implement equal protection for the right to life of each born and preborn human person,” and defines a human being as “each and every member of the species homo sapiens at all stages of life, including the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.”



WHAT THAT MEANS FOR ACCESS TO IVF

Personhood is irreconcilable with the current standard practice for IVF, which often involves the creation of more embryos than are used. Under personhood theory, the discarding of the remaining embryos could bring civil or criminal penalties, and could be considered homicide or abuse. Thus, the Republican Party’s support for personhood is in direct conflict with claims that the party will support “policies that advance ... IVF (fertility treatments).”³

The threat that the legal concept of personhood poses to IVF legality and availability is not hypothetical. Earlier this year, the Alabama Supreme Court applied personhood in [ruling](#) that frozen embryos created through IVF and stored in a freezer at fertility clinics are “unborn children” under state law. This caused fertility clinics to [suspend treatments](#) to avoid liability, leaving many patients who had invested time, financial resources, and hope in the treatments in limbo until the Alabama legislature [passed a law](#) specifically shielding IVF providers from prosecutions related to the handling of embryos (though not changing the state’s personhood law). Fertility clinics and patients in Alabama have continued to [move embryos outside the state](#) in recognition that the protective law may be overturned.

Alabama’s case made the risk of personhood and the importance of federal protections for IVF clear. Yet, Senate Republicans blocked [legislation](#) that would provide a nationwide right to access IVF twice, in June 2024 and in September 2024. Vice Presidential candidate JD Vance [voted to block](#) the legislation in June, and was absent and did not vote in September. Although Republicans also introduced a [bill](#) that would deny Medicaid funding to states that ban IVF, the bill would not protect IVF providers from liability under state personhood laws. Explaining the Democrats’ rejection of that bill in June 2024, Senator Patty Murray [observed](#) that the bill “would still allow states to regulate IVF out of existence,” and was “silent on fetal personhood, which is the biggest threat to IVF.”

Some personhood proponents [claim](#) that IVF need not be banned under personhood theory but may instead be strictly regulated to avoid the creation of extra embryos. They argue that IVF should be lawful only when fertilized eggs can be immediately transferred to a uterus in order to avoid creating any surplus embryos that are frozen or discarded. This would not only severely disrupt current practice and medical standards of care but also render IVF

³ Republican National Committee 2024 Platform, at page 20.

- inaccessible to most people in this county. Not all embryos are viable, and a law barring
- the creation of more than one embryo per cycle would decrease the likelihood of success
- of each cycle, requiring patients to undergo multiple cycles to try to achieve a pregnancy
- and dramatically increasing the financial (and physical) burden of a process that can already
- cost [\\$30,000 per cycle](#). Additionally, at least some clinics would cease providing IVF because
- of the potential liability of handling and storing embryos under personhood laws, further
- decreasing patients' access to care.
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- These federal legislative actions, the Republican Party's clear continued endorsement of
- personhood, and the practical limitations of successful IVF if only one embryo can be used at a
- time, casts doubt on the party's professed support for IVF. If personhood is advanced in federal
- law or permitted to spread in state law unconstrained by federal protections—as set forth in
- the Republican Party platform and presidential transition plan—access to IVF will be at risk.
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