

Fact Sheet on Virginia House Bill 1 (HB 1)

Personhood for Embryos: What does it mean for infertility patients?

Background on HB1

HB 1 is a so-called “personhood” bill introduced in the Virginia state legislature and sponsored by Delegate Robert Marshall. It would redefine the word “person” under Virginia law to include microscopic embryos and would give them full legal rights.

HB1 passed in the Virginia House of Delegates on Feb. 14, 2012 by a vote of 66-32. It is expected to be voted on by the VA Senate within the next 10 days. If it passes in the Senate, it will be presented to Governor Bob McDonnell to sign and become law.

How “personhood” measures affect infertility patients

If microscopic embryos are declared by law to have the same rights as full human beings, then any action that risks or causes harm to an embryo will be illegal. It would be treated the same as harming or killing a full grown human.

Consequences for infertility patients include the following:

Embryo cryopreservation or freezing is illegal:

Patients will have to transfer ALL embryos formed in an IVF cycle, which will lead to more risky multiple births.

Cancer patients will be unable to freeze embryos to preserve the chance to have children after chemotherapy or radiation.

Patients who experience hyperstimulation and for whom the medical recommendation is to freeze and not transfer the embryos right away will have to transfer the embryos and risk harm to their health.

Without the ability to freeze unused embryos, patients will have to pay for a full IVF cycle and take all the medicines, each time they try to have a baby.

Embryo disposition options are limited:

Embryos can never be discarded or donated to research if the couple no longer needs them for family building.

Unclear if embryos could remain in cryopreservation.

Leaving embryos frozen could be determined to interfere with the embryos' "right to life." Embryos could be ordered to be transferred to someone's uterus for birth in order to realize their right to life.

Embryo tests like pre-implantation genetic diagnosis (PGD) are illegal, even though they help patients not pass on devastating genetic disorders to their children.

Under HB1, Sec. 3, when donor eggs or sperm are used, the donor has the "protectable interest" in the embryo's life, not the intended parents.

Infertility doctors will have to practice substandard medicine and will be subjected to Governmental scrutiny about how they handle embryos.

Many infertility doctors will choose to practice in other states rather than risk criminal or civil penalties from trying to help couples have children.

Does Section 7 of HB1 "carve out" or protect infertility treatment?

RESOLVE has studied this question in depth and received input from many experts. The unanimous answer is no: Section 7 will not "save" infertility treatment.¹

There are two principal reasons why Sec. 7 does not protect infertility patients:

Section 7 saves only "lawful" assisted conception, but HB1 itself changes what is lawful. HB1 will make mainstream standard practices UNlawful, as described above.

"Assisted conception" as defined in VA law is not infertility treatment or IVF. Rather, it is the pregnancy resulting from treatment. Thus, Section 7 protects only the pregnancy, not the treatments. The meaning is confusing and ambiguous.

In vitro fertilization, the most effective treatment for infertility, was pioneered in the United States by Drs. Howard and Georgeanna Jones – in Virginia. Since the first IVF baby was born here in 1981, millions of couples have had the joy of family thanks to this medical treatment.

HB1 does not serve the interests of people with infertility and RESOLVE urges those with infertility, and people who care about those with infertility, to take action to oppose HB1. HB1 is anti-family for us. On behalf of our families, babies, and hoped-for babies, please help us defeat HB1.

¹ Section 7 reads: "Nothing in this section shall be interpreted as affecting lawful assisted conception." While this sounds at first as if it protects infertility treatment, in fact it does not.