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Texas' abortion law doesn't target IVF. Women are still changing their fertility plans

Possible challenges to the definition of when life begins have some patients, doctors and legal experts worried about the future of in vitro fertilization



By [Marin Wolf](#)

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Erica Young has been trying to get pregnant for six years. In a few weeks, the Fort Worth couple will start the physically and mentally strenuous process of in vitro fertilization for the third time.

Hopefully the treatment, which involves the creation of embryos outside of the womb, will lead to a baby. But the Youngs are worried that Texas' abortion laws triggered by the [fall of Roe v. Wade](#) could alter their quest for parenthood.

The state's so-called [trigger law](#), which bans abortion in nearly all cases, likely won't take effect for several weeks, and experts say it shouldn't change the legality of IVF. But possible challenges to the legal definition of when life begins have some patients, doctors and legal scholars worried that aspects of IVF could come under fire.

With just the potential for legal challenges to IVF, Texans trying to conceive with medical help are preparing to change their fertility plans, including leaving the state for treatments, paying to store frozen embryos indefinitely or not pursuing additional IVF treatment at all.

A [failed abortion bill](#) proposed in Louisiana would have redefined personhood as beginning at fertilization, giving embryos full legal rights and making some parts of IVF illegal. It's possible that Texas will see similar legislative pushes, said Seema Mohapatra, a health law and bioethics expert and law professor at Southern Methodist University.



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Erica, a surgical technician, hopes she'll get pregnant with her next attempted implantation, which could leave her with extra viable embryos.

At 38, her chances of conceiving naturally are lower than that of younger women. They're only made worse by fertility complications affecting both her and her husband, Ronnie Young.

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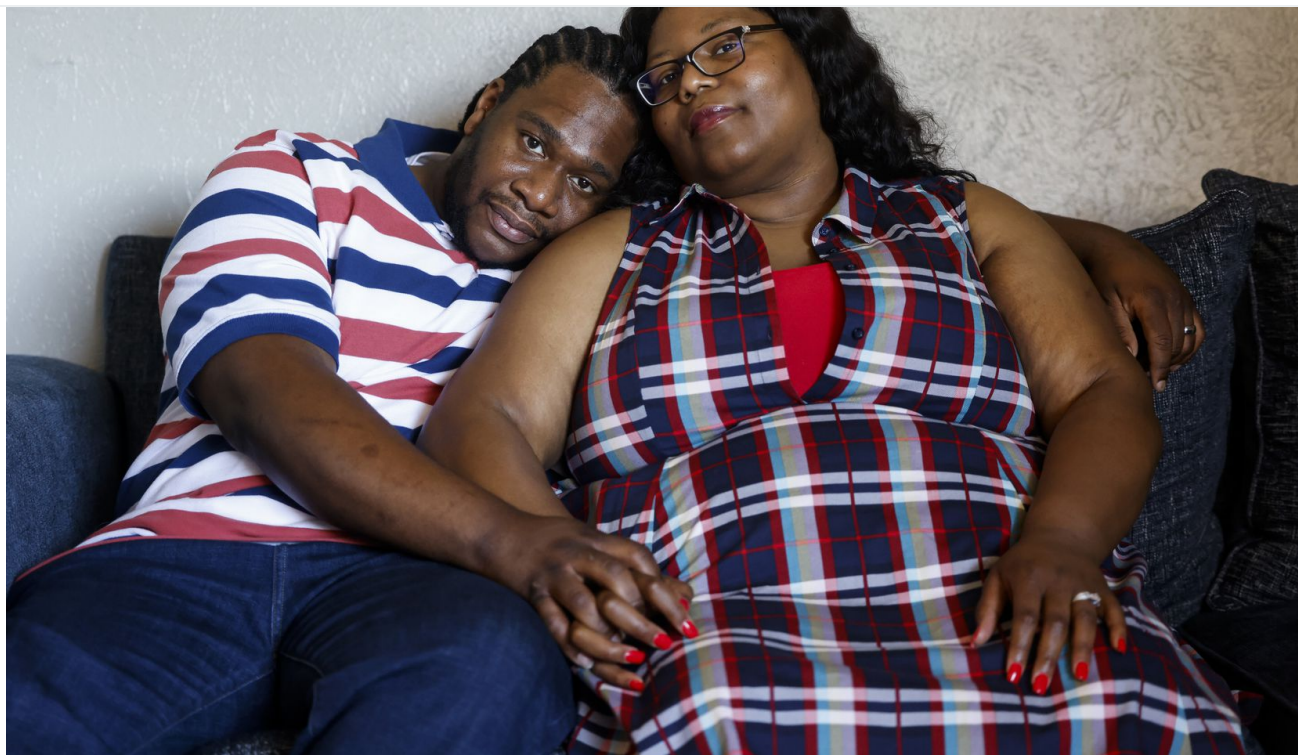
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Erica Young, right, and her husband Ronnie Young Jr, on Sunday, July 10, 2022, in Fort Worth. The couple has been trying to conceive for six years and is about to start their third round of IVF. Erica is planning to pay to keep any embryos in storage units for the rest of her life. (Shafkat Anowar / Staff Photographer)

The couple is preparing to pay hundreds of dollars a year to keep the embryos frozen so that neither they nor their doctors could get in trouble for discarding them.

“We’ll have to pay a storage fee every year to have a facility to store our embryos, or we have to transfer our embryos to another state, which will also be costly,” Erica said. “But, even if I have to pay a storage fee, I will in order to protect my clinic or my physician.”

The science of IVF

Reproductive health specialists are carefully navigating their new post-Roe reality, an environment that has never before coincided with IVF. The Supreme Court ruling protecting abortion existed before the first “test tube baby” was delivered nearly 45 years ago.



implications on their embryos.

Dr. Jerald Goldstein, the practice's founder and medical director, assured patients that nothing has changed as of right now, and that they can safely continue with their IVF treatments. He received so many inquiries that he posted a YouTube video explaining how Texas' laws apply to the procedures.

IVF is expensive, physically demanding and comes with no guarantee of a child. An IVF cycle can cost up to \$25,000, Goldstein said. But each round – many people require multiple rounds of treatment to conceive – offers patients the possibility of experiencing pregnancy.

At the beginning of an IVF cycle, women are given synthetic hormones to stimulate the ovaries to produce multiple eggs at once instead of just one. Doctors monitor the development of eggs with bloodwork and multiple ultrasounds over a 12-day period, Goldstein said.





Once the eggs are mature, they're extracted and fertilized with semen in a lab, creating embryos. The embryos develop for five days, and if they make it to day five, they can be biopsied to check for any abnormalities.

Some people end the process with three or four viable embryos. Some only have one, while others don't get any. "Five or six eggs usually make one good embryo," Goldstein said.

Viable embryos are typically frozen before they're implanted. While implanting multiple embryos at once used to be common practice, most reproductive health experts only implant one embryo at a time now, in an effort to avoid pregnancies with multiple babies.

If a patient gets pregnant and has remaining viable embryos, they have a few options: Keep them frozen for future use; donate the embryos to another patient or to science; or discard them.

That's where things could get complicated.

What to do with extra embryos

Lacie Perez is waiting. Infertility often requires a lot of that.

The 39-year-old physical therapy assistant and her husband have been trying to get pregnant for two years. After their first round of IVF only yielded one viable embryo, they decided to go through another cycle. They have five embryos after the second time around, and now they're waiting for genetic testing to see if the embryos have any abnormalities.

In a perfect world, all or most of her embryos will be healthy and she'd get pregnant after the first one is implanted. That could leave several eggs behind.

The couple has already decided that they'd pay to store remaining embryos in another state where abortion is still legal if challenges to IVF arise in Texas. But



Related: [How could Texas Republicans further restrict abortion next year?](#)

“If one of my embryos is positive for something like cystic fibrosis, could they possibly make me use that embryo instead of freezing it or discarding it? Could it affect how they do genetic testing?” she asked. “We haven’t even had one child yet, and the goal is to have two. I’m going to have to store my embryos somewhere, and I want them to be safe wherever I have them.”

Donation of embryos, be it to science or another couple that’s trying to conceive, is a complicated alternative.

Heather Burzlaff, 37, went through multiple unsuccessful IVF rounds before taking a break from trying to get pregnant. Now, she and her husband are undergoing testing to see if another round is possible or worth it.

She knows that if she ends up with unused embryos, she doesn’t want to donate them.

“We’re not comfortable with donating because I don’t want to know that I have a kid walking around out there that I don’t know,” she said.

Uncertainty after the fall of Roe will likely be enough to dissuade Shoshanna White, 41, from trying for a second child through IVF. She was on the fence before the birth of her daughter in early July.

“There’s so much unknown in infertility anyway to add an element that is completely and utterly out of your control... it’s just too much going through the process,” she said. “Maybe if I hadn’t done it before. Going in, you know it’s going to be difficult, but there’s a difference between the proverbial knowing and actually going through it.”



Shoshanna White kisses her 11-day-old daughter ShaeLynn on Saturday, July 9, 2022 at their residence in Plainview. White gave birth to her “miracle baby” after years of trying to get pregnant. Though her child was conceived without an IVF transfer, she has an embryo still frozen and stored with her doctor. She worries about the potential implications of Roe v. Wade on fertility treatments. (Shafkat Anowar / Staff Photographer)

The mental anguish of infertility

Worries about the future of the family that she so desperately wants have permeated Erica Young’s thoughts daily since Roe fell. She’s worried about herself and she’s worried about the fertility experts trying to help her.

And while SMU’s Mohapatra said people don’t need to panic under Texas abortion law as it’s currently written, she understands why some people are already preparing for the worst-case scenarios.

“This is an additional concern and burden that absolutely doesn’t need to happen,” she said.

Erica said she’s debating leaving Texas for every part of her fertility treatments, even though she’s unsure whether her fertility insurance will apply in another



Doctors are advising that nothing has changed, so patients don't need to switch up their plans. Goldstein said he doubts that anyone in Texas would want to impede the process of medically-assisted conception.

"We've spent our lives building families," he said.

Related: Pregnant woman says her fetus should count as a passenger in HOV lanes. She got a ticket



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