

[First Reprint]

ASSEMBLY RESOLUTION No. 122

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED MARCH 7, 2024

Sponsored by:

Assemblywoman LISA SWAIN

District 38 (Bergen)

Assemblywoman GARNET R. HALL

District 28 (Essex and Union)

Assemblywoman JESSICA RAMIREZ

District 32 (Hudson)

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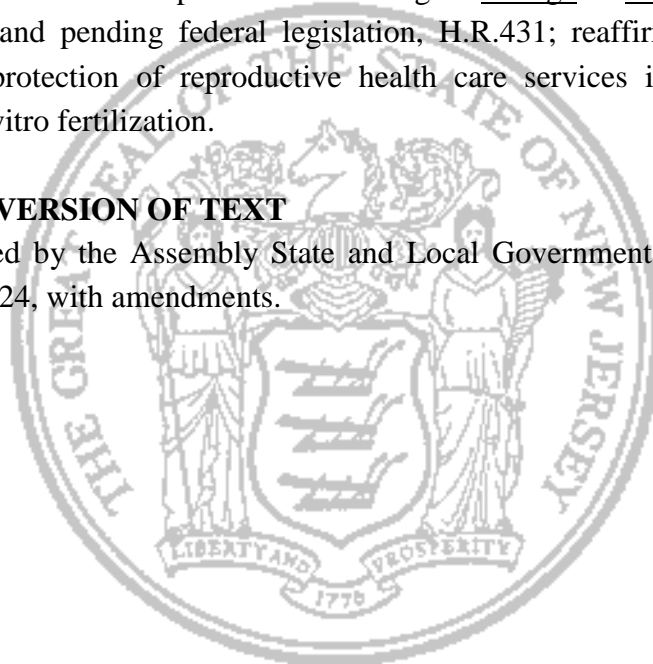
Assemblywomen Haider, Reynolds-Jackson, Assemblymen Karabinchak, Freiman, Assemblywomen Katz, Drulis, Speight, Bagolie, McCoy and Quijano

SYNOPSIS

Condemns Alabama Supreme Court ruling in LePage v. Mobile Infirmity Clinic, P.C. and pending federal legislation, H.R.431; reaffirms freedom of access and protection of reproductive health care services in New Jersey, including in vitro fertilization.

CURRENT VERSION OF TEXT

As reported by the Assembly State and Local Government Committee on March 11, 2024, with amendments.



(Sponsorship Updated As Of: 3/18/2024)

1 **AN ASSEMBLY RESOLUTION** condemning Alabama court ruling and
2 federal legislation threatening reproductive assistance services
3 and reaffirming New Jersey citizens’ freedom to access
4 reproductive health care services, including in vitro fertilization.
5
6 **WHEREAS**, In the United States, one in six people of childbearing age
7 struggle with infertility and require some type of professional
8 assistance in order to conceive a child; and
9 **WHEREAS**, Fortunately, 90 percent of infertility cases are treatable
10 with medical therapies including drug treatment, surgery, and in
11 vitro fertilization (IVF); and
12 **WHEREAS**, IVF is a process whereby an egg is removed from a
13 person's body and combined with sperm inside a laboratory for
14 fertilization; the fertilized egg, called an embryo, is then transferred
15 into the uterus; and
16 **WHEREAS**, In a recent decision, LePage v. Mobile Infirmiry Clinic,
17 P.C., the Alabama Supreme Court ruled that embryos are
18 “extrauterine children,” and that the state’s “‘Wrongful Death of A
19 Minor Act’ applies on its face to all unborn children, without
20 limitation;” and
21 ¹**WHEREAS**, This holding could have widespread implications for
22 anyone in Alabama who seeks, or provides, IVF; and
23 **WHEREAS**, The LePage ruling threatens the rights of Alabamians who
24 are planning to have children; endangers fertility clinics that
25 provide IVF services and facilities that have embryos stored; and
26 endangers the overall future of family planning in the state; and¹
27 **WHEREAS**, Along with Alabama’s strict ban on abortions, in assigning
28 personhood to embryos outside of the human body, this ruling
29 means for many Alabamians that it is the state, not the person, who
30 can decide whether they can become pregnant; and
31 ¹**WHEREAS**, The LePage holding had immediate widespread
32 implications for anyone in Alabama who seeks, or provides, IVF,
33 resulting in the closure of IVF clinics and halting of IVF services;
34 and
35 **WHEREAS**, Following the LePage holding, on March 6, 2024,
36 Governor Kay Ellen Ivey of Alabama signed into law S.B.159 to
37 ensure criminal and civil immunity for those administering or
38 receiving IVF services; however, this enactment fails to address the
39 core issue of the LePage ruling, that embryos are to be interpreted
40 as extrauterine children; and
41 **WHEREAS**, Notwithstanding this new enactment, the LePage ruling
42 continues to threaten the rights of Alabamians who are planning to
43 have children, and endangers the overall future of family planning
44 in the state; and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ASL committee amendments adopted March 11, 2024.

1 WHEREAS, On March 7, 2024, Iowa House Republicans advanced
2 legislation, H.F.2575, that would make it a felony to “cause the
3 death” of an “unborn person,” which would threaten the imposition
4 of criminal penalties for with those who seek and provide IVF
5 services in that state; and¹
6 **WHEREAS,** Furthermore, with the support of over 120 of his
7 colleagues from the Republican party, West Virginia Congressman
8 Alexander X. Mooney introduced federal legislation, H.R. 431, in
9 January 2024 to implement equal protection under the Fourteenth
10 Amendment to the United States Constitution for the right to life of
11 each “born and preborn human person”; and
12 **WHEREAS,** Pursuant to H.R. 431, the terms “human person” and
13 “human being” include “each and every member of the species
14 homo sapiens at all stages of life, including the moment of
15 fertilization, cloning, or other moment at which an individual
16 member of the human species comes into being”; and
17 **WHEREAS,** Following the LePage decision, a number of Republican
18 senators joined the Democrats in criticizing the ruling, and
19 expressed their support for IVF; and
20 **WHEREAS,** Tammy Duckworth, a Democratic Senator from Illinois
21 who utilized IVF to conceive her two children, introduced S.3612
22 in order to protect the rights of individuals to seek reproductive
23 assistance, such as IVF, and the physicians who provide these
24 services, without the fear of prosecution; and
25 **WHEREAS,** Senator Duckworth urged her Republican colleagues, as
26 many initially denounced the LePage ruling for the harmful
27 precedent that the decision has set on reproductive assistance
28 services, to join the Democrats’ efforts to protect access to IVF by
29 unanimously passing S.3612; and
30 **WHEREAS,** Republican Senator Cindy Hyde-Smith of Mississippi
31 blocked the unanimous passage of the bill by objecting to Senator
32 Duckworth’s request; and
33 **WHEREAS,** New Jersey has long been a state that supports, and
34 provides protections for, the reproductive freedom of its citizens,
35 including the right to make the deeply personal choice of whether to
36 start or expand a family through IVF; and
37 **WHEREAS,** When the United States Supreme Court issued its 2022
38 decision in Dobbs v. Jackson Women’s Health Org., which
39 overturned Roe v. Wade, the country faced fear and uncertainty
40 around key reproductive rights issues; and
41 **WHEREAS,** A number of states that criminalized reproductive health
42 care access following Dobbs took action to interfere with a person’s
43 access to reproductive health care, in jurisdictions where it
44 remained legal; and
45 **WHEREAS,** Following the Dobbs decision, the United States
46 Department of Health and Human Services issued a proposed rule
47 designed to protect those seeking access to reproductive healthcare

1 out-of-state when such access was criminalized following the
2 ruling; and

3 **WHEREAS**, In response to the proposed rule change, nearly 20 state
4 Attorneys General signed on to a letter opposing the rule change in
5 order to ensure access by the Attorneys General to private health
6 information “for a criminal, civil, or administrative investigation
7 into or proceeding against any person in connection with seeking,
8 obtaining, providing, or facilitating reproductive health care ...
9 outside of the state where the investigation or proceeding is
10 authorized” and “is lawful in the state where it is provided” in order
11 to prosecute these individuals; and

12 **WHEREAS**, Actions, such as those of the Attorneys General who
13 joined in opposing the rule change, are designed to prevent
14 individuals and providers from seeking and providing lawful
15 reproductive health care services by instilling fear through the
16 threat of prosecution; and

17 **WHEREAS**, In stark contrast to actions taken in states to monitor
18 private health information, the New Jersey legislature has acted to
19 protect private medical information from prosecutors in other states,
20 to ensure New Jersey law enforcement will not take part in
21 extraditions to people who have sought reproductive health care
22 that is legal in New Jersey, and to require the creation of a website
23 so people who are confused about recent court decisions know what
24 their freedoms are on reproductive health decisions in New Jersey;
25 and

26 **WHEREAS**, Legislation enacted in January 2020 mandates health
27 benefits coverage for fertility preservation services under certain
28 health insurance plans; and

29 **WHEREAS**, In January 2024, legislation was enacted to make fertility
30 services more accessible and affordable by requiring certain private
31 sector health insurers which are regulated by the State to provide
32 coverage for any services related to infertility including, but not
33 limited to, different types of IVF and embryo transfers; and

34 **WHEREAS**, It is in the public interest of the citizens of the State and
35 this great nation to condemn, in the strongest terms, any ruling or
36 state or federal legislative enactment that infringes on citizens’
37 rights to exercise their reproductive freedom or their ability to
38 access reproductive health care, including IVF; now, therefore,
39

40 **BE IT RESOLVED** by the General Assembly of the State of New
41 Jersey:

42
43 1. This resolution condemns the Alabama Supreme Court ruling,
44 in LePage v. Mobile Infirmary Clinic, P.C., that embryos are
45 “extrauterine children”; and condemns federal pending legislation
46 H.R. 431, to implement equal protection under the Fourteenth
47 Amendment to the United States Constitution for the right to life of

1 each “born and preborn human person” beginning at the moment of
2 fertilization or cloning.

3

4 2. The resolution further condemns the threat the LePage ruling
5 and H.R. 431 pose to in vitro fertilization (IVF), and the fear and
6 uncertainty concerning reproductive freedom that the ruling and
7 pending legislation create for the citizens of Alabama and the
8 United States.

9

10 3. In addition, the resolution reaffirms the New Jersey
11 Legislature’s commitment to protecting its citizens’ reproductive
12 freedom and full access to reproductive health care, including IVF.

13

14 4. Copies of this resolution, as filed with the Secretary of State,
15 shall be transmitted by the Clerk of the General Assembly to each
16 member of Congress elected from this State, the New Jersey
17 Commissioner of Health, and the Attorney General of the State of
18 New Jersey.