

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
95th General Assembly
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As Engrossed: H1/16/25

A Bill

HOUSE BILL 1013

Representatives *Hudson, A. Collins, D. Garner, Springer*

For An Act To Be Entitled

AN ACT TO PROTECT FERTILITY TREATMENT RIGHTS IN THIS STATE; TO PROMOTE THE RIGHT AND ABILITY TO CHOOSE TO RECEIVE FERTILITY TREATMENT PROVIDED IN ACCORDANCE WITH WIDELY ACCEPTED AND EVIDENCE-BASED MEDICAL STANDARDS OF CARE; AND FOR OTHER PURPOSES.

Subtitle

TO PROTECT FERTILITY TREATMENT RIGHTS IN THIS STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 16 – Fertility Treatment Rights

20-9-1601. Definitions.

As used in this subchapter:

(1) "Fertility treatment" means:

(A) Preservation of human oocytes, sperm, or embryos for later reproductive use;

(B) Artificial insemination, including intravaginal insemination, intracervical insemination, and intrauterine insemination;

(C) Assisted reproductive technology, including in vitro fertilization and other treatments or procedures in which reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos are handled, when clinically appropriate;



(D) Genetic testing of embryos;
(E) Medications prescribed or obtained over-the-counter,
as indicated for fertility;
(F) Gamete donation; and
(G) Such other information, referrals, treatments,
procedures, medications, laboratory testing, technologies, and services
relating to fertility as deemed appropriate by the Secretary of the United
States Department of Health and Human Services;

(2) "Healthcare provider" means an entity or individual that:

(A) Is engaged or seeks to engage in the delivery of
fertility treatment, including through evidence-based information,
counseling, referrals, or items and services relating to, aiding in, or
providing fertility treatment; and

(B) Is licensed, certified, permitted, or otherwise
authorized by the state to engage in the delivery of services relating to,
aiding in, or providing fertility treatment;

(3)(A) "Healthcare insurer" means an insurance company,
insurance service, or insurance organization, including a health maintenance
organization, which is licensed to engage in the business of insurance in
this state.

(B) "Healthcare insurer" does not include a group health
plan as defined by 42 U.S.C. § 300gg-91, as existing on January 1, 2025;

(4) "Manufacturer" means manufacturer of a drug or device
approved, cleared, authorized, or licensed under the Federal Food, Drug, and
Cosmetic Act, as existing on January 1, 2025, or 42 U.S.C. § 262, as existing
on January 1, 2025, or otherwise legally marketed; and

(5) "Widely accepted and evidence-based medical standards of
care" means medical services, procedures, and practices that are in
accordance with the guidelines of the American Society for Reproductive
Medicine.

20-9-1602. Individual fertility treatment rights.

An individual has a right without prohibition, limitation,
interference, or impediment to:

(1) Receive fertility treatment from a healthcare provider, in
accordance with widely accepted and evidence-based medical standards of care;

(2) Continue or complete an ongoing fertility treatment previously initiated by a healthcare provider, in accordance with widely accepted and evidence-based medical standards of care;

(3) Make decisions and arrangements regarding the donation, testing, use, storage, or disposition of reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos; and

(4) Establish contractual agreements with a healthcare provider relating to the healthcare provider's services in handling, testing, storing, shipping, and disposing of the individual's reproductive genetic material in accordance with widely accepted and evidence-based medical standards of care.

20-9-1603. Healthcare provider rights.

A healthcare provider has a right without prohibition, limitation, interference, or impediment to:

(1) Provide or assist with fertility treatment provided in accordance with widely accepted and evidence-based medical standards of care;

(2) Continue, complete, or assist with fertility treatment that was lawful when commenced and is provided in accordance with widely accepted and evidence-based medical standards of care;

(3) Provide for or assist with the testing, use, storage, or disposition of reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, in accordance with widely accepted and evidence-based medical standards of care; and

(4) Establish contractual agreements with individuals or manufacturers relating to the healthcare provider's services in handling, testing, storing, shipping, and disposing of an individual's reproductive genetic material.

20-9-1604. Healthcare insurer rights.

A healthcare insurer has a right without prohibition, limitation, interference, or impediment to cover fertility treatment provided in accordance with widely accepted and evidence-based medical standards of care.

20-9-1605. Manufacturer rights

A manufacturer has a right without prohibition, limitation, interference, or impediment to manufacture, import, market, sell, and

distribute a drug or device legally marketed and intended for use in providing fertility treatment, including the storage or transport of oocytes, gametes, fertilized eggs, and embryos.

20-9-1606. Regulation of medicine.

The enforcement of state laws regarding medical facilities or healthcare providers does not constitute a violation of this subchapter if:

(1) The state laws or rules are in accordance with widely accepted and evidence-based medical standards of care for providing fertility treatment; and

(2) The safety or health objective cannot be advanced by a different means that does not prohibit, limit, interfere with, or impede the rights described in this subchapter.

20-9-1607. Enforcement.

(a) An individual or entity adversely affected by an alleged violation of this subchapter may commence a civil action against an individual, employee, official, agency head, contractor, organization, or instrumentality that enacts, implements, or enforces a limitation or requirement that prohibits, limits, interferes with, or impedes the rights of an individual, a healthcare provider, a healthcare insurer, or a manufacturer under this subchapter.

(b) A healthcare provider may commence a civil action for relief on behalf of the healthcare provider, the healthcare provider's staff, or the healthcare provider's patients who are or may be adversely affected by an alleged violation of this subchapter.

(c) In any action under this subchapter, the court may award appropriate equitable relief, including temporary, preliminary, or permanent injunctive relief.

(d)(1) In any action under this subchapter, the court shall award costs of litigation, as well as reasonable attorney's fees, to any prevailing plaintiff.

(2) A plaintiff is not liable to a defendant for costs or attorney's fees in any non-frivolous action under this subchapter unless the costs or attorney's fees are imposed by the court as part of sanctions for violations committed during the discovery process.

/s/Hudson