



Written by [D. Michael DeRidder](#) on February 21, 2024

University Pauses IVF After Alabama Supreme Court Rules Frozen Embryos Are Children

The University of Alabama at Birmingham (UAB) has [paused in vitro fertilization treatments](#) (IVF) in response to Alabama's Supreme Court ruling in favor of three couples who are suing a clinic in Mobile for wrongful death of frozen embryos. In 2020, a patient entered the clinic's storage area and dropped a container, killing several embryos.

In announcing the pause, UAB noted that patients and physicians could be at risk legally as a result of the court's decision. In a statement sent out by UAB, public relations specialist Hannah Echols wrote, "We are saddened that this will impact our patients' attempt to have a baby through IVF, but we must evaluate the potential that our patients and our physicians could be prosecuted criminally or face punitive damages for following the standard of care for IVF treatments."

Alabama Supreme Court Justice Jay Mitchell [wrote in the decision](#), "The central question presented in these consolidated appeals, which involve the death of embryos kept in a cryogenic nursery, is whether the [Wrongful Death of a Minor] Act contains an unwritten exception to that rule for extrauterine children — that is, unborn children who are located outside of a biological uterus at the time they are killed. Under existing black-letter law, the answer to that question is no: the Wrongful Death of a Minor Act applies to all unborn children, regardless of their location."

in his [dissenting opinion](#), Justice Greg Cook argued that, unlike in utero embryos, in vitro embryos are not protected by Alabama law, writing, "Both the original public meaning and this recent caselaw indicate the same result here — that the Wrongful Death Act does not address frozen embryos. Moreover, there are other significant reasons to be concerned about the main opinion's holding. No court — anywhere in the country — has reached the conclusion the main opinion reaches. And, the main opinion's holding almost certainly ends the creation of frozen embryos through in vitro fertilization ('IVF') in Alabama."



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