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Economic Security Programs Should Support Pregnant People and Their Families, Not Promote Harmful “Fetal Personhood” Agenda

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Pregnant people with low incomes should have access to economic security programs to help them meet their needs. They should also have the freedom to decide whether and when to have children. However, some states are attaching “fetal personhood” provisions to narrow economic benefits, a strategy legal experts warn would help lay the groundwork for a national abortion ban. Lawmakers should reject these efforts to take away access to essential health care and people’s freedom to make decisions about their bodies, lives, and futures. Instead, lawmakers should meaningfully improve economic security programs that support pregnant people and their families *without* undermining their reproductive freedom.

Following the *Dobbs* decision in June 2022, lawmakers in many states with abortion bans or restrictions have introduced legislation that would make fetuses eligible for tax benefits, Temporary Assistance for Needy Families (TANF) cash benefits, and child support payments.² These policies are designed to advance the concept of “fetal personhood”—a decades-long effort by the anti-abortion movement to recognize fetuses as “people” under our laws, including the U.S. Constitution.³ Experts on the topic believe proponents of “fetal personhood” aim to bring a case

¹ The authors thank Kathryn Menefee, Clarke Wheeler, and Sudria Twyman at National Women’s Law Center for their guidance and review of this piece. Additional thanks to the organizations Pregnancy Justice and If/When/How: Lawyering for Reproductive Justice for their guidance. CBPP takes full responsibility for any omissions or mistakes.

² Policy areas in which the anti-abortion movement is attempting to embed “fetal personhood” language also include wrongful death, battery, and civil liability charges, fetal homicide statutes, and child trafficking, among others. Pregnancy Justice, “Unpacking Fetal Personhood: The Radical Tool That Undermines Reproductive Justice,” September 2024, <https://www.pregnancyjusticeus.org/wp-content/uploads/2024/09/Fetal-personhood.pdf>.

³ Glen A. Halva-Neubauer and Sara L. Zeigler, “Promoting Fetal Personhood: The Rhetorical and Legislative Strategies of the Pro-Life Movement after *Planned Parenthood v. Casey*,” *Feminist Formations*, Vol. 22, No. 2, June 1, 2010, <https://www.jstor.org/stable/40835373>.

before the U.S. Supreme Court, which could grant fetuses rights under the 14th Amendment, effectively banning abortion nationwide.⁴

In addition to the long-game legal strategy, fetal personhood provisions have real-time negative outcomes. Women with low incomes and women of color already experience disproportionate surveillance and criminal prosecutions for pregnancy outcomes. Women have been prosecuted for having abortions, miscarriages, and even for giving birth to healthy babies, if substance use testing after the birth comes back positive.⁵ Fetal personhood provisions in economic security programs make matters worse. These programs require people to disclose their pregnancy status, allowing the state to monitor pregnancies and find out when a pregnancy ends early. The potential harm of this practice impacts everyone but would likely disproportionately impact women with low incomes and women of color.⁶

States Pushing “Fetal Personhood” Provisions in TANF, Child Support, and Tax Policy Offer Little Economic Assistance to Families

Fetal personhood provisions in economic security programs do nothing to meaningfully improve access to economic benefits. Instead, they contribute to the anti-abortion movement’s efforts to establish a federal abortion ban and monitor and punish people for their pregnancy outcomes. These are examples of ways anti-abortion advocates are advancing fetal personhood provisions in states:

- During state legislative sessions between the *Dobbs* decision, in 2022, through 2024, 13 states considered 21 tax-related bills that included fetal personhood provisions. Across proposals, lawmakers used similar language to modify the legal definition of a child and equate it with a fetus, including terms such as “unborn child” and any embryo “in utero, at any stage of gestation.” Georgia became the first, and remains the only, state to pass legislation giving tax benefits to fetuses when its abortion ban,⁷ which also extended the income tax deduction for children to fetuses, went into effect after the *Dobbs* decision.⁸
- TANF bills implicating fetal personhood count a fetus as a child in determining household size. These bills frame eligibility around the fetus rather than the pregnant person. During state legislative sessions since the *Dobbs* decision through 2024, Oklahoma enacted one such

⁴ Regan McCarthy, “How states giving rights to fetuses could set up a national case on abortion,” NPR, March 5, 2024, <https://www.npr.org/2024/03/05/1235970171/how-states-giving-rights-to-fetuses-could-set-up-a-national-case-on-abortion>.

⁵ Collectively, South Carolina, Alabama, and Oklahoma contributed to almost 3 in 5 (57.3 percent) pregnancy criminalization arrests from 1973 to 2023. Pregnancy Justice, “The Rise of Pregnancy Criminalization,” September 2023, <https://www.pregnancyjusticeus.org/wp-content/uploads/2023/09/9-2023-Criminalization-report.pdf>.

⁶ Although fetal personhood provisions threaten the health and well-being of *all* people who are or can become pregnant, most people impacted by fetal personhood provisions are cisgender women, and research on this issue primarily focuses on cisgender women, to whom we refer here.

⁷ Pria Mahadevan, “Georgia’s fetal personhood law adds ‘unborn dependents’ to its tax code,” Prism, May 9, 2023, <https://prismreports.org/2023/05/09/georgia-fetal-personhood-tax-code/>.

⁸ Carter Sherman, “Georgians probably benefited little from claiming fetuses on tax filings,” Guardian, April 15, 2024, <https://www.theguardian.com/us-news/2024/apr/15/georgia-fetus-tax-deduction>.

proposal⁹ and Arizona considered another.¹⁰ Nebraska has included “unborn children” as members of a TANF household starting in the mother’s third trimester since 2013.¹¹

- During state legislative sessions since the *Dobbs* decision through 2024, 13 states have considered 24 proposals to grant child support rights for fetuses, one of which was enacted in Georgia in 2022.¹² Child support bills implicating fetal personhood typically allow a person to seek a child support order any time after “conception.” For example, Kansas considered a bill in 2024 that would have provided child support to an “unborn child,” defined as “a living individual organism of the species *homo sapiens*, in utero, at any stage of gestation from fertilization to birth.”¹³

The same states advancing these fetal personhood provisions offer little economic assistance to families. For example, refundable child tax credits are designed to help families with low incomes afford the basics to support their children. However, only one of the 13 states that proposed fetal personhood tax legislation in recent years offers a refundable child tax credit. Among the 11 states that have proposed fetal personhood provisions in child support, only three pass through some amount of child support payments to families participating in TANF.¹⁴ And the two states that have proposed or enacted TANF fetal personhood provisions have among the lowest TANF benefit amounts nationwide.

In addition to the state trends outlined above, federal lawmakers periodically introduce fetal personhood provisions within these policy areas,¹⁵ like a recent proposal to extend the federal Child

⁹ Oklahoma HB 1932, 2023, <https://s3.amazonaws.com/fn-document-service/file-by-sha384/fe842f764cb5404cd5c2b0a39a406202e6cf16230997410fb1a3a22ce5b46590bc308b1341f32020f3c2326635fd048f>.

¹⁰ Arizona HB 2138, 2023, <https://www.azleg.gov/legtext/56leg/1R/bills/HB2138P.htm>.

¹¹ Nebraska Department of Human Services, TANF State Plan, 2024, <https://dhhs.ne.gov/Documents/Nebraska-State-TANF-Plan-2024.pdf#:~:text=Nebraska%E2%80%99s%20TANF%20cash%20assistance%20program%20is%20called%20Aid,with%20an%20unborn%20child%20in%20the%20final%20trimester>

¹² Katie Kindelan, “Georgia allows ‘unborn child’ to count as a dependent on taxes,” ABC News, August 3, 2022, <https://abcnews.go.com/GMA/Living/georgia-unborn-child-count-dependent-taxes/story?id=87873125>.

¹³ Kansas SB 425, 2024, <https://s3.amazonaws.com/fn-document-service/file-by-sha384/833efd9b49a1210a91a6a97e4ea8c6c74c5446432c158fc8f90d69bed4e336f074f1038d5d48d72c869186bc99789d88>.

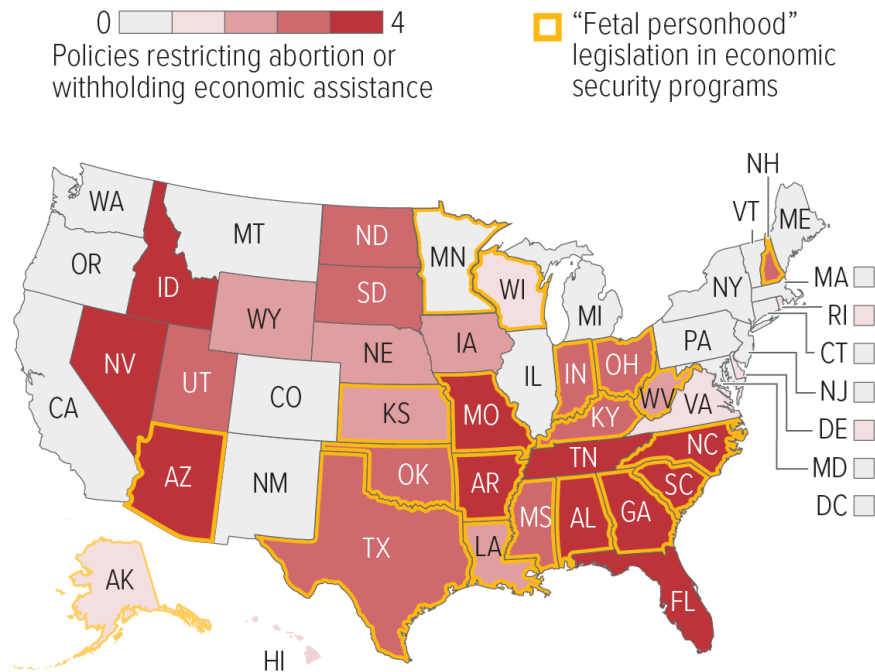
¹⁴ Vicki Turetsky and Diana Azevedo-McCaffrey, “Understanding TANF Cost Recovery in the Child Support Program,” CBPP, updated July 12, 2024, <https://www.cbpp.org/research/income-security/understanding-tanf-cost-recovery-in-the-child-support-program>.

¹⁵ Planned Parenthood Action Fund, “MEMO: The growing threat of ‘fetal personhood’ measures across the country,” Feb. 29, 2024, <https://www.plannedparenthoodaction.org/pressroom/the-growing-threat-of-fetal-personhood-measures-across-the-country>.

Tax Credit to “unborn children,”¹⁶ and another that would make “unborn children” eligible for child support payments.¹⁷ Fetal personhood provisions should be rejected at all levels of government.

FIGURE 1

Many States Advancing “Fetal Personhood” Legislation for Economic Security Programs Have Restrictive Abortion Policies, But Offer Little Economic Assistance to Families



Notes: For specifics on each state, see interactive map at CBPP.org, “Economic Security Programs Should Support Pregnant People and Their Families, Not Promote Harmful ‘Fetal Personhood’ Agenda.” “Policies withholding economic assistance” refers to no refundable earned income tax credit or child tax credit, low TANF benefits, and/or no child support pass-through. For more information on child support pass-through, see CBPP, “Understanding TANF Cost Recovery in the Child Support Program.” “Policies restricting abortion” includes a range of restricted access to abortion including total abortion bans and 26-week abortion bans. Consult the Guttmacher map, which categorizes states based on a range of abortion policies, for specifics on each state.

Source: CBPP analysis of Guttmacher, “Interactive Map: US Abortion Policies and Access After Roe,” Policies current as of February 12, 2025.

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¹⁶ Benjamin Guggenheim, “GOP vice chair floats Child Tax Credit expansion,” PoliticoPro, January 13, 2025, <https://subscriber.politicopro.com/article/2025/01/gop-vice-chair-floats-child-tax-credit-expansion-00197807>.

¹⁷ U.S. Senator Kevin Cramer, “Cramer, Tenney Reintroduce Bicameral Legislation Allowing Pregnant Mothers to Receive Child Support,” press release, January 23, 2025, <https://www.cramer.senate.gov/news/press-releases/cramer-tenney-reintroduce-bicameral-legislation-allowing-pregnant-mothers-to-receive-child-support>.

Improving Economic Security Programs *and* Ensuring Access to Reproductive Health Care Would Help All People Thrive

To promote the health and well-being of all people, states should reject fetal personhood provisions. Instead, states should ensure access to reproductive health care, including abortion, *and* improve economic security programs to help families not just survive, but thrive. To improve policies that provide economic support to families with low incomes, states should:

- **Enact and expand refundable and inclusive earned income tax credits (EITCs) and child tax credits for people with low incomes without “fetal personhood” provisions.**¹⁸ Cash received through refundable state tax credits promotes reproductive justice for families with low incomes by providing a measure of financial support to raise their children in healthy and safe environments.¹⁹ Income from policies like refundable state tax credits is linked with improved women’s health, better birth outcomes, and long-term benefits for children, including better nutrition, better school enrollment, higher academic achievement and educational attainment, and higher earnings into young adulthood.²⁰
- **Direct *all* child support to current and past TANF participants.** Custodial families must participate in the child support program to receive TANF cash assistance, but they often don’t get to keep all the child support payments made on their behalf. Custodial families have to sign over their rights to child support payments to the state while they receive cash benefits from TANF.²¹ To date, 28 states and the District of Columbia pass through some amount of child support to families. Child support helps struggling families pay for children’s basic needs, like food, housing, and school supplies.²²
- **Raise TANF benefit levels and improve the accessibility of their TANF programs for families in need.** To help families afford necessities that often can only be met with cash, like food, rent, and utilities, states should increase benefit levels and ensure cash benefits keep pace with inflation over time.²³ States should also provide supplemental TANF payments for essentials like housing, diapers, and period products, and end punitive policies like family caps

¹⁸ Samantha Waxman, Joanna LeFebvre, and Sonali Master, “Interactive Map: States Should Continue Enacting and Expanding Child Tax Credits and Earned Income Tax Credits,” CBPP, updated August 26, 2024, <https://www.cbpp.org/research/state-budget-and-tax/states-should-continue-enacting-and-expanding-child-tax-credits-and>.

¹⁹ Sister Song, “Visioning New Futures for Reproductive Justice Declaration 2023,” <https://www.sistersong.net/visioningnewfuturesforrj>.

²⁰ Samantha Waxman and Iris Hinh, “States Can Enact or Expand Child Tax Credits and Earned Income Tax Credits to Build Equitable, Inclusive Communities and Economies,” CBPP, updated March 3, 2023, <https://www.cbpp.org/research/state-budget-and-tax/states-can-enact-or-expand-child-tax-credits-and-earned-income-tax>.

²¹ Turetsky and Azevedo-McCaffrey, “Understanding TANF Cost Recovery in the Child Support Program.”

²² Vicki Turetsky and Diana Azevedo-McCaffrey, “Directing Child Support Payments to Families, Not Government, Would Help Families Afford Basic Needs and Thrive,” CBPP, October 8, 2024, <https://www.cbpp.org/research/income-security/directing-child-support-payments-to-families-not-government-would-help>.

²³ Diana Azevedo-McCaffrey and Tonzhiht Aguas, “Continued Increases in TANF Benefit Levels Are Critical to Helping Families Meet Their Needs and Thrive,” CBPP, updated February 26, 2025, <https://www.cbpp.org/research/income-security/continued-increases-in-tanf-benefit-levels-are-critical-to-helping>.

that deny additional cash benefits for children born to parents receiving TANF.²⁴ In addition, states can help pregnant people access safe housing and healthy food by expanding TANF eligibility to pregnant people without minor children from the beginning of pregnancy; about two-thirds of states currently do.²⁵

To be clear, improved economic security policies are only one piece of what pregnant people and their families need. Everyone must also have access to quality health care services, including abortion care, to live safe and healthy lives.

²⁴ Urvi Patel and Aditi Shrivastava, “Reproductive Justice and TANF: Repealing ‘Family Cap’ Policies Promotes Economic Justice and Family Autonomy,” CBPP, December 19, 2023, <https://www.cbpp.org/blog/reproductive-justice-and-tanf-repealing-family-cap-policies-promotes-economic-justice-and>.

²⁵ Ali Zane, Cindy Reyes, and LaDonna Pavetti, “TANF Can Be a Critical Tool to Address Family Housing Instability and Homelessness,” CBPP, July 19, 2022, <https://www.cbpp.org/research/income-security/tanf-can-be-a-critical-tool-to-address-family-housing-instability-and>.