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NEWS FOR IMMEDIATE RELEASE

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Attorney General Kaul Asks Congress to Expand Access to Reproductive Health Services after Alabama IVF Decision

During National Infertility Awareness Week, 21 AGs Call for More Affordable and Accessible Assisted Reproductive Technology Services Nationwide

MADISON, Wis. – Attorney General Josh Kaul today joined a coalition of 21 attorneys general urging Congress to pass the Access to Family Building Act, legislation that would protect the right to access assisted reproductive technology (ART), such as in-vitro fertilization (IVF), nationwide.

Assisted reproductive technology has provided thousands of people in diverse situations the opportunity to grow their families. This includes cancer survivors, same-sex couples, people experiencing infertility and those choosing to parent alone. However, the high cost of procedures and lack of insurance coverage for ART prevent many from accessing these services.

“It’s stunning that legislation like this has become necessary. But with the recent decision from Alabama imperiling IVF in that state and ongoing efforts to restrict reproductive freedom more generally, it’s clear that it is,” said Attorney General Kaul. “Congress must act to affirm that the government shouldn’t be in the business of depriving prospective parents of access to IVF.”

This letter follows the recent Alabama Supreme Court decision that jeopardized essential reproductive health services by classifying frozen embryos used during IVF

as people, the coalition of attorneys general argues for strong federal protections, such as the Access to Family Building Act, to expand access to ART and to protect patients' rights to make their own reproductive health care decisions.

The recent Alabama Supreme Court decision, which determined that embryos should be considered "extrauterine children" and that the destruction of embryos created through IVF is subject to the state's Wrongful Death of a Minor Act, put the practice of IVF in jeopardy in Alabama. Clinics across the state suspended their services immediately following this decision, devastating patients who were in the midst of IVF treatment. This decision threatens ART services nationwide and the right of families to make their own reproductive healthcare decisions.

In the letter sent to the leadership of the Senate Committee on Health, Education, Labor, and Pensions and Subcommittee on Health of the House Committee on Energy and Commerce, Attorney General Kaul and the coalition of attorneys general urge Congress to take proactive steps to protect ART services.

ART has allowed thousands of people, including same-sex couples, single parents, and those experiencing health conditions such as cancer or infertility, to build a family. Nearly two percent of all babies born in the U.S. each year are conceived using ART. However, the cost of ART services can be prohibitive, and the insurance policy definitions of "infertility" can be limiting, especially for LGBTQ+ couples.

The average cost of ART services in the U.S. such as IVF is approximately \$20,000 a cycle, but that number can increase depending on a patient's medical protocols, or if a patient undergoes multiple cycles. Currently, only 21 states and the District of Columbia have passed laws related to insurance coverage, but the terms vary state by state. Insurance policies can also preclude patient access through varying definitions of infertility or requirements that not all patients meet.

The Access to Family Building Act would make ART services more accessible to families of all types by guaranteeing patients the right to ART without prohibition or unreasonable limitation or interference, encouraging health insurance providers to cover these services, and ensuring that patients have the right to make their own determinations and decisions regarding their reproductive genetic materials.

ART is critical to families across the country, but barriers persist that prevent many from accessing these services. As the coalition of attorneys general argues in the letter to Congressional leaders, these services are crucial, and in light of the recent Alabama Supreme Court decision, are in need of protection.

Joining Attorney General Kaul in sending this letter to Congress are the attorneys general of Arizona, California, Colorado, Connecticut, Delaware, Hawai'i, Illinois, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Oregon, Rhode Island, Vermont and the District of Columbia.