

**RESOLUTION NO. 20220519-035**

**WHEREAS**, the City of Austin is committed to the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities; and

**WHEREAS**, the City seeks to be a family-friendly community where diverse families are able to fulfill their full potential and build safe, stable, and nurturing environments for young children; and

**WHEREAS**, the City Council has demonstrated its support for parental benefit policies by adopting Resolution Nos. 20220505-034, 20211209-060, 20190606-041, and 20130606-047; and

**WHEREAS**, as the City seeks to improve support for workers with children, employees may struggle to build a family for a wide variety of reasons; and

**WHEREAS**, according to the Centers for Disease Control and Prevention, one in eight couples in the United States, or 7.4 million Americans, have trouble conceiving or carrying a pregnancy to term; and the number of those struggling to achieve parenthood is likely much higher when same-sex couples, single parents by choice, and individuals discouraged to seek out treatment by the cost and lack of coverage are considered; and

**WHEREAS**, medical advances in assisted reproductive technology (ART), including the use of In Vitro Fertilization (IVF) and gestational carriers (surrogacy), have made it possible for more people to choose to have biological children, however inequities and disparities in access to fertility care services adversely affect lower-income and other marginalized populations; and

**WHEREAS**, approximately 80% of all individuals who undergo fertility treatment do not have insurance coverage for these services, and when IVF treatment is paid for out-of-pocket, employees often pursue less expensive and less effective treatments; and

**WHEREAS**, many couples and individuals may be prevented from building families because employer benefits may not consider fertility treatment to be covered as medically necessary or provide support to workers seeking adoption, fostering or kinship placement, leaving these options to be cost-prohibitive for most employees attempting to self-finance; and

**WHEREAS**, since 1987, the State of Texas has been one of only a handful of states that require private health insurers make available coverage for expenses that may arise from IVF procedures; however, according to section 1366.005 of the Insurance Code, coverage is required only when reproductive material comes from a spouse and the couple must have a medical history of infertility for at least five years; and

**WHEREAS**, the City employee health coverage is self-funded and exempt from many state rules on private health care coverage and the current City policy excludes most fertility treatments, including IVF under a wide range of scenarios, but does have similar medical infertility coverage as required in state code as well as in cases of cervical trauma; and

**WHEREAS**, the City prides itself on being a LGBTQIA+ friendly community and employer, and on May 13, 2006, Austin voters passed Proposition 2 by a vote of 68 percent in favor which amended the City Charter to recognize equal domestic partner benefits for City employees; and

**WHEREAS**, the City supports gender equity, and the Council has passed Resolution No. 20170323-054, which states that it is the goal of the City to eliminate any “distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, on the basis of equality between men and women, of human rights or fundamental freedom in the political, economic, social, cultural, civil, or any other field;” and

**WHEREAS**, fertility care services, such as oocyte cryopreservation (egg freezing), allow for greater choice in the timing of pregnancy and planning of family development which may be less disruptive to employee careers; and

**WHEREAS**, on June 15, 2020, the United States Supreme Court ruled in *Bostock v. Clayton County, Georgia* that sexual orientation and gender identity discrimination are prohibited under federal sex-based employment protections; and

**WHEREAS**, *The Access to Infertility Treatment and Care Act* (S.2352, HR4450) has been introduced in Congress and would require health insurers nationally to provide a standard level of coverage for infertility treatment, as well as fertility preservation services for individuals who anticipate undergoing medically necessary procedures that may cause infertility, such as chemotherapy; and

**WHEREAS**, according to the May 2021 RESOLVE National Survey of Employer-Sponsored Health Plans, 97% of employers who reported adding infertility coverage did not result in a significant increase in medical plan cost; and

**WHEREAS**, recently there has been significant growth in fertility coverage among private employers, and according to the same study, 55% of companies had some level of coverage and 47% included IVF; and



**WHEREAS**, many couples or individuals may seek to grow their family through adoption, fostering or kinship placement and there are currently over 100,000 children awaiting adoption in the United States, and over 400,000 children in foster care, including approximately 45,000 in foster care in Texas, which has long lacked shelter and placement capacity; and

**WHEREAS**, employers can provide support for the often complex and expensive process of adoption, fostering or kinship placement by including information and referral resources, financial assistance, and parental leave; and

**WHEREAS**, the City competes for workforce talent with many employers who offer expanded family building benefits; and

**WHEREAS**, the City strives to be a model employer in its commitment to the values of equity and non-discrimination, setting an example for other major employers in central Texas and the country; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City of Austin supports laws and policies that protect and promote the full spectrum of reproductive justice. Individuals and couples have the right to plan their families without discrimination, and access to medical care and employer support should be inclusive of all individuals or couples seeking to build a family, independent of their wealth, gender identity, sexual orientation, or marital status.

**BE IT FURTHER RESOLVED:**

The City Manager is directed to amend the federal legislative agenda to support legislation that advances workplace equity for family building support and increases the number of people with access to health insurance that covers infertility medical treatment, and specifically IVF and fertility preservation.

**BE IT FURTHER RESOLVED:**

The City Manager is directed to study and provide recommendations for providing inclusive and high-quality family-building benefits to City employees, including, but not limited to, expanded access to IVF, cryopreservation, and support for adoption, foster care, and kinship placement services. This study may make recommendations for phased implementation of benefits.

**BE IT FURTHER RESOLVED:**

The City Manager is directed to provide an interim status update to Council within 90 days and a final report back to Council within 180 days and to share their final recommendations and copy of this Resolution with:

- The Human Rights Commission, Commission for Women, LGBTQ Quality of Life Commission, Early Childhood Council, and Mayor's Committee for People with Disabilities;
- Leadership of employee affinity groups including Woman to Woman and Stonewall Equality Employee Network; and
- AFSCME Local 1624, Austin EMS Association, Austin Firefighters Association, and Austin Police Association.

**ADOPTED:** May 19, 2022

**ATTEST:**

Stephanie Hall for  
Myrna Rios  
City Clerk