



# Ice Ice [Maybe] Baby

## Is Egg Freezing All It's Cracked Up to Be?

EMILY ALBRECHT

**M**illennial women, including young women lawyers, are starting families later than ever. And while women's bodies haven't changed, fertility technology has. What does this trend mean for the future of the never-ending struggle to achieve work-life balance? Is egg freezing really the key to "having it all," or are we just procrastinating?

### WHAT'S THE RUSH?

The Centers for Disease Control report that between 2000 and 2014, the proportion of first births to women aged 30–34 rose 28 percent, and first births to women aged 35 and over rose 23 percent. But biology remains constant. Women are still born with a finite supply of eggs, which rapidly decreases in quantity with age and the quality of which drastically diminishes over time. Older eggs lead to increased risks for chromosomal abnormalities that can cause birth defects and miscarriages. This shift toward delaying motherhood is due, at least in part, to elective egg freezing. This option is an increasingly available, attractive one for many women who may not be ready to become pregnant now but want to try to ensure their ability to do so in the future.

### FASHIONABLY LATE

Marketing strategies have capitalized on this opportunity: Trendy "ladies' night out" themed cocktail party events hosted by fertility specialists; stylish slogans such as *Smart Women Freeze*, *Baby-Making on Ice*, and *Stop the Clock*; and hip social media campaigns such as #LetsChill. These promotions pledge that virtually all women, but especially those with higher education and promising career prospects, should be jumping on the egg-freezing train, either as a deliberate life plan, or as an insurance policy. You know, as the responsible thing everyone can and should do, *just in case*.

Even an episode of the millennial-favorite series *The Mindy Project* ended with a monologue from Dr. Mindy Lahiri during a presentation to an auditorium full of NYU girls who had come to learn more about egg freezing and her clinic:

*Let's be honest, guys, most men are complete garbage. OK listen, listen... when I was your age, I thought that I was gonna be married by the time I was 25. But it took a lot longer than that. And unfortunately, your body does not care if you are dating the wrong guy, or [if] the guy you're with is also sleeping with the rest of your dorm. Your body and your eggs just keep getting older, which is why freezing them is actually a pretty smart idea, because it gives you a little more time so that you can try to find that one diamond in the crap heap of American men. Because even if you find the right guy, you're gonna want a little extra time . . . because being an adult is messy and hard. It's not just all smiley face emojis wearing sunglasses.*

### FREEZING YOUR ASSETS

All jokes aside, even if egg freezing is successful, it won't come cheap: costs typically add up to at least \$10,000 per round (with at least two rounds recommended for most), plus \$500 or more for annual storage. There are risks to leaving your frozen eggs in a storage facility. For starters, if you need to move, eggs that are damaged in transit can prove disastrous.

And, contrary to popular belief, a successful freeze doesn't guarantee a successful pregnancy. It was only four years ago that the American Society of Reproductive Medicine (ASRM) and its affiliate, the Society for Advanced Reproductive Technology (SART), deemed egg freezing to no longer be an "experimental procedure," because "[t]he success of oocyte cryopreservation has improved dramatically over the past decade, and preliminary data for safety are reassuring," boosting interest in egg freezing.

According to ASRM and SART, the ideal candidates for oocyte cryopreservation are young women or adolescent girls undergoing chemotherapy or radiation, placing them at high risk for infertility, and women with genetic mutations that place them at a high risk of ovarian cancer, spurring them to remove their ovaries as a preventive measure before they have had children. ASRM/SART cautions that there is “not yet sufficient data to recommend oocyte cryopreservation for the sole purpose of circumventing reproductive aging in healthy women,” and that “[m]arketing this technology for the purpose of deferring childbearing may give women false hope and encourage women to delay childbearing.” The lack of data to support the effectiveness of egg freezing in healthy women is due largely to the fact that, because the option is relatively new, most healthy women who have frozen their eggs have not yet tried to use them. As a result, their likelihood of having a healthy baby from those frozen eggs is not yet known.

In theory, the idea of freezing their eggs can be empowering in that it gives women a sense of control—the perception of more time to focus on their careers and tune out the sound of their biological clocks. This is largely due to the way that egg freezing has been, and continues to be, portrayed as the next big step in women’s reproductive liberty and as the ultimate road to “having it all” (i.e., a career and a family). But when women believe the exaggerated claims about the success rate of egg freezing, some may naïvely assume they are “insured” against natural fertility decline, postpone parenthood, and subject themselves to increased pregnancy risks in older age. But for those women who know that there is only a small chance that any of their frozen eggs will become a baby, that chance can be better than nothing. For them, freezing their eggs is as much a way to find peace of mind in the short term as it is about a future family.

Even if a woman chooses to freeze her eggs, what is the right number? Dr. Janis Fox, a reproductive endocrinologist at the Brigham and Women’s Hospital and an assistant professor at Harvard Medical School, led a team that published a 2017 study in the journal *Human Reproduction* on this precise question. Dr. Fox’s “BWH Egg Freezing Counseling Tool (EFCT),” which predicts the likelihood of live birth for elective egg freezing in women ages 24–44 undergoing fertility counseling, can be found at <https://goo.gl/31kBCt>. EFCT predicts the likelihood of having at least one, two, or three live births, using only two data points—age and number of mature oocytes. The tool incorporates the likelihood that an embryo will have a normal number of chromosomes to help determine whether undergoing additional egg freezing cycles would result in a meaningful increase in the likelihood of having a live birth.

## PICKING UP THE TAB

For various reasons, some employers have begun to financially support their women employees’ pursuit of egg freezing. As of 2016, global consulting firm Mercer reports that egg freezing is now covered by 5 percent of all large employers and, among employers with 20,000 or more employees, 10 percent. Notable examples include Apple, eBay, Facebook, Google, Intel, LinkedIn, Netflix, Snapchat, Spotify, Time Warner, Uber, and Yahoo. While employers’ support may reward women who delay childbearing for professional growth, some are concerned that young female workers may feel pressure to take the offer and show their commitment to the company and their career.

Similarly, the jury is still out as to how such an initiative at, say, a large law firm would be received by attorneys. Glenn Cohen, co-director of Harvard Law School’s Petrie-Flom Center for Health Law and Policy, Biotechnology and Bioethics, has expressed concerns. Cohen asks if “potential female associates [would] welcome this option knowing that they can work hard early on and still reproduce, if they so desire, later on . . . [o]r would they take this as a signal that the firm thinks that working there as an associate and pregnancy are incompatible?”

## BEFORE YOU HEAD FOR THE FREEZER

Like the decision to start a family, the decision not to start a family—at least not yet—is an equally serious one. If you’re seriously considering freezing your eggs to [maybe] preserve the option of starting a family later in life, make sure to do your research first. Speak with your treatment providers regarding potential health and pregnancy risks, at present versus later in life. And if you are going to freeze embryos that have been fertilized by a significant other—married or otherwise—make sure to contact a family law attorney who specializes in fertility agreements, as these things tend to get very messy when folks split up and do not agree on what to do with their mutual genetic property. With expert advice in hand, you will be better equipped to make decisions that align with your long-term childbearing goals.

**EMILY ALBRECHT** IS AN ASSOCIATE WITH BETTS, PATTERSON & MINES, P.S. IN SEATTLE, WASHINGTON. SHE MAY BE REACHED AT [EALBRECHT@BPMLAW.COM](mailto:EALBRECHT@BPMLAW.COM).

## PROBABILITY OF AT LEAST ONE, TWO, OR THREE LIVE BIRTHS

