

118TH CONGRESS
2D SESSION

H. R. 9643

To protect and expand nationwide access to fertility treatment, including
in vitro fertilization.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2024

Ms. WILD (for herself, Mr. CONNOLLY, Ms. DELAURO, and Mr. LARSEN of Washington) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Veterans' Affairs, Armed Services, Education and the Workforce, Ways and Means, and Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect and expand nationwide access to fertility
treatment, including in vitro fertilization.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Right to IVF Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—ACCESS TO FAMILY BUILDING

- Sec. 101. Short title.
- Sec. 102. Purposes.
- Sec. 103. Definitions.
- Sec. 104. Fertility treatment rights.
- Sec. 105. Applicability and preemption.

TITLE II—VETERAN FAMILIES HEALTH SERVICES

- Sec. 200. Short title.

Subtitle A—Reproductive and Fertility Preservation Assistance for Members
of the Uniformed Services

- Sec. 201. Definitions.
- Sec. 202. Provision of fertility treatment and counseling to certain members of the uniformed services and spouses, partners, and gestational surrogates of such members.
- Sec. 203. Establishment of fertility preservation procedures after an injury or illness.
- Sec. 204. Cryopreservation and storage of reproductive genetic material of members of the uniformed services on active duty.
- Sec. 205. Assistance with and continuity of care regarding reproductive and fertility preservation services.
- Sec. 206. Coordination between Department of Defense and Department of Veterans Affairs on furnishing of fertility treatment and counseling.
- Sec. 207. Regulations.

Subtitle B—Reproductive Assistance for Veterans

- Sec. 211. Inclusion of fertility treatment and counseling under the definition of medical services in title 38.
- Sec. 212. Fertility treatment and counseling for certain veterans and spouses, partners, and gestational surrogates of such veterans.
- Sec. 213. Assistance with and continuity of care regarding reproductive and fertility preservation services.
- Sec. 214. Coordination of reproduction and fertility research for veterans.

TITLE III—ACCESS TO FERTILITY TREATMENT AND CARE

- Sec. 301. Short title.
- Sec. 302. Standards relating to benefits for fertility treatment.
- Sec. 303. Requirement for State Medicaid plans To provide medical assistance for fertility treatment.
- Sec. 304. Medicare coverage of fertility treatment.

TITLE IV—FAMILY BUILDING FEHB FAIRNESS

- Sec. 401. Short title.
- Sec. 402. Fertility treatment benefits.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person, entity, government, or cir-
4 cumstance is held to be unconstitutional, the remainder
5 of this Act, or the application of such provision to all other
6 persons, entities, governments, or circumstances shall not
7 be affected thereby.

8 **TITLE I—ACCESS TO FAMILY**
9 **BUILDING**

10 **SEC. 101. SHORT TITLE.**

11 This title may be cited as the “Access to Family
12 Building Act”.

13 **SEC. 102. PURPOSES.**

14 The purposes of this title are as follows:

15 (1) To permit patients to seek and receive fer-
16 tility treatment, including assisted reproductive tech-
17 nology services, and to permit health care providers
18 that choose to provide fertility treatment, to provide
19 such services without States enacting harmful or un-
20 warranted limitations or requirements that single
21 out the provision of assisted reproductive services for
22 restrictions that are not consistent with widely ac-
23 cepted and evidence-based medical standards of care,
24 and which do not significantly advance reproductive
25 health or the efficacy and safety of fertility treat-

1 ment, or make fertility treatment more difficult to
2 access.

3 (2) To promote the right and ability of a pa-
4 tient residing in any State to choose to receive fer-
5 tility treatment provided in accordance with widely
6 accepted and evidence-based medical standards of
7 care by a health care provider who chooses to pro-
8 vide such services.

9 (3) To protect an individual's right to make de-
10 cisions, in consultation with the individual's health
11 care provider, about the most appropriate medical
12 care to maximize the chance of becoming pregnant
13 and giving birth to a healthy, living, human child
14 with the help of fertility treatment.

15 **SEC. 103. DEFINITIONS.**

16 In this title:

17 (1) **FERTILITY TREATMENT.**—The term “fer-
18 tility treatment” includes the following:

19 (A) Preservation of human oocytes, sperm,
20 or embryos for later reproductive use.

21 (B) Artificial insemination, including
22 intravaginal insemination, intracervical insemi-
23 nation, and intrauterine insemination.

24 (C) Assisted reproductive technology, in-
25 cluding in vitro fertilization and other treat-

1 ments or procedures in which reproductive ge-
2 netic material, such as oocytes, sperm, fertilized
3 eggs, and embryos, are handled, when clinically
4 appropriate.

5 (D) Genetic testing of embryos.

6 (E) Medications prescribed or obtained
7 over-the-counter, as indicated for fertility.

8 (F) Gamete donation.

9 (G) Such other information, referrals,
10 treatments, procedures, medications, laboratory
11 testing, technologies, and services relating to
12 fertility as the Secretary of Health and Human
13 Services determines appropriate.

14 (2) HEALTH CARE PROVIDER.—The term
15 “health care provider” means any entity or indi-
16 vidual (including any physician, nurse practitioner,
17 physician assistant, pharmacist, health care support
18 personnel, clinical staff, and any other individual, as
19 determined by the Secretary of Health and Human
20 Services) that—

21 (A) is engaged or seeks to engage in the
22 delivery of fertility treatment, including through
23 the provision of evidence-based information,
24 counseling, referrals, or items and services that

1 relate to, aid in, or provide fertility treatment;
2 and

3 (B) if required by State law to be licensed,
4 certified, or otherwise authorized to engage in
5 the delivery of such services—

6 (i) is so licensed, certified, or other-
7 wise authorized; or

8 (ii) would be so licensed, certified, or
9 otherwise authorized but for the fact that
10 the individual or entity has provided, is
11 providing, or plans to provide fertility
12 treatment in accordance with section 104.

13 (3) HEALTH INSURANCE ISSUER.—The term
14 “health insurance issuer” has the meaning given
15 such term in section 2791(b) of the Public Health
16 Service Act (42 U.S.C. 300gg–91(b)).

17 (4) MANUFACTURER.—The term “manufac-
18 turer” means the manufacturer of a drug or device
19 approved, cleared, authorized, or licensed under sec-
20 tion 505, 510(k), 513(f)(2), or 515 of the Federal
21 Food, Drug, and Cosmetic Act (21 U.S.C. 355,
22 360(k), 360c(f)(2), 360e) or section 351 of the Pub-
23 lic Health Service Act (42 U.S.C. 262) or otherwise
24 legally marketed.

1 (5) STATE.—The term “State” includes each of
2 the 50 States, the District of Columbia, Puerto Rico,
3 each territory and possession of the United States,
4 and any political subdivision thereof.

5 (6) WIDELY ACCEPTED AND EVIDENCE-BASED
6 MEDICAL STANDARDS OF CARE.—The term “widely
7 accepted and evidence-based medical standards of
8 care” means any medical services, procedures, and
9 practices that are in accordance with the guidelines
10 of the American Society for Reproductive Medicine.

11 **SEC. 104. FERTILITY TREATMENT RIGHTS.**

12 (a) GENERAL RULE.—

13 (1) INDIVIDUAL RIGHTS.—An individual has a
14 statutory right under this title, without prohibition,
15 limitation, interference, or impediment, to the extent
16 that such prohibition, limitation, interference, or im-
17 pediment in any way or degree obstructs, delays, or
18 affects commerce over which the Federal Govern-
19 ment has jurisdiction, to—

20 (A) receive fertility treatment from a
21 health care provider, in accordance with widely
22 accepted and evidence-based medical standards
23 of care;

24 (B) continue or complete an ongoing fer-
25 tility treatment previously initiated by a health

1 care provider, in accordance with widely accept-
2 ed and evidence-based medical standards of
3 care;

4 (C) make decisions and arrangements re-
5 garding the donation, testing, use, storage, or
6 disposition of reproductive genetic material,
7 such as oocytes, sperm, fertilized eggs, and em-
8 bryos; and

9 (D) establish contractual agreements with
10 a health care provider relating to the health
11 care provider's services in handling, testing,
12 storing, shipping, and disposing of the individ-
13 ual's reproductive genetic material in accord-
14 ance with widely accepted and evidence-based
15 medical standards of care.

16 (2) HEALTH CARE PROVIDER RIGHTS.—A
17 health care provider has a statutory right under this
18 title, without prohibition, limitation, interference, or
19 impediment, to the extent that such prohibition, lim-
20 itation, interference, or impediment in any way or
21 degree obstructs, delays, or affects commerce over
22 which the Federal Government has jurisdiction, to—

23 (A) provide, or assist with the provision of,
24 fertility treatment provided in accordance with

1 widely accepted and evidence-based medical
2 standards of care;

3 (B) continue or complete the provision of,
4 or assistance with, fertility treatment that was
5 lawful when commenced and is provided in ac-
6 cordance with widely accepted and evidence-
7 based medical standards of care;

8 (C) provide for, or assist with, the testing,
9 use, storage, or disposition of reproductive ge-
10 netic material, such as oocytes, sperm, fertilized
11 eggs, and embryos, in accordance with widely
12 accepted and evidence-based medical standards
13 of care; and

14 (D) establish contractual agreements with
15 individuals or manufacturers relating to the
16 health care provider's services in handling, test-
17 ing, storing, shipping, and disposing of the indi-
18 vidual's reproductive genetic material.

19 (3) HEALTH INSURANCE ISSUER RIGHTS.—A
20 health insurance issuer has a statutory right under
21 this title, without prohibition, limitation, inter-
22 ference, or impediment, to the extent that such pro-
23 hibition, limitation, interference, or impediment in
24 any way or degree obstructs, delays, or affects com-
25 merce over which the Federal Government has juris-

1 diction, to cover the provision of fertility treatment
2 provided in accordance with widely accepted and evi-
3 dence-based medical standards of care.

4 (4) MANUFACTURER RIGHTS.—A manufacturer
5 of a drug or device that is approved, cleared, author-
6 ized, or licensed under section 505, 510(k),
7 513(f)(2), or 515 of the Federal Food, Drug, and
8 Cosmetic Act (21 U.S.C. 355; 360(k); 360c(f)(2);
9 360e) or section 351 of the Public Health Service
10 Act (42 U.S.C. 262) or otherwise legally marketed
11 and intended for use in the provision of fertility
12 treatment, including the storage or transport of oo-
13 cytes, gametes, fertilized eggs, and embryos, has a
14 statutory right under this title, without prohibition,
15 limitation, interference, or impediment, to the extent
16 that such prohibition, limitation, interference, or im-
17 pediment in any way or degree obstructs, delays, or
18 affects commerce over which the Federal Govern-
19 ment has jurisdiction, to manufacture, import, mar-
20 ket, sell, and distribute such drug or device.

21 (b) STATE REGULATION OF MEDICINE.—The en-
22 forcement of State health and safety law regarding med-
23 ical facilities or health care providers does not constitute
24 a violation of subsection (a) if—

1 (1) such regulations are in accordance with
2 widely accepted and evidence-based medical stand-
3 ards of care for providing fertility treatment; and

4 (2) the safety or health objective cannot be ad-
5 vanced by a different means that does not prohibit,
6 limit, interfere with, or impede the rights described
7 in subsection (a).

8 (c) ENFORCEMENT.—

9 (1) THE ATTORNEY GENERAL.—

10 (A) IN GENERAL.—The Attorney General
11 may commence a civil action on behalf of the
12 United States against any State; an individual,
13 employee, official, agency head, contractor, or-
14 ganization, or instrumentality acting for, or on
15 behalf of, such a State; or any individual acting
16 under the color of, or pursuant to, State law,
17 that implements, enforces, or threatens to en-
18 force a limitation or requirement that prohibits,
19 limits, interferes with, or impedes the statutory
20 rights of an individual, a health care provider,
21 a health insurance issuer, or a manufacturer
22 under subsection (a).

23 (B) EFFECT OF VIOLATIONS.—The court
24 shall hold unlawful and set aside a limitation or

1 requirement described in subparagraph (A) if it
2 is in violation of subsection (a).

3 (2) PRIVATE RIGHT OF ACTION.—

4 (A) IN GENERAL.—Any individual or entity
5 adversely affected by an alleged violation of
6 subsection (a) may commence a civil action
7 against an individual, employee, official, agency
8 head, contractor, organization, or instrumen-
9 tality acting for, or on behalf of, such a State
10 that enacts, implements, or enforces a limita-
11 tion or requirement that prohibits, limits, inter-
12 feres with, or impedes the statutory rights of an
13 individual, a health care provider, a health in-
14 surance issuer, or a manufacturer under sub-
15 section (a).

16 (B) EFFECT OF VIOLATIONS.—The court
17 shall hold unlawful and enjoin a limitation or
18 requirement described in subparagraph (A) if it
19 is in violation of subsection (a).

20 (3) HEALTH CARE PROVIDER.—

21 (A) IN GENERAL.—A health care provider
22 may commence a civil action for relief on such
23 provider's own behalf, on behalf of the pro-
24 vider's staff, or on behalf of the provider's pa-

1 tients who are or may be adversely affected by
2 an alleged violation of subsection (a).

3 (B) EFFECT OF VIOLATIONS.—The court
4 shall hold unlawful and enjoin a limitation or
5 requirement described in subparagraph (A) if it
6 is in violation of subsection (a).

7 (4) EQUITABLE RELIEF.—In any action under
8 this section, the court may award appropriate equi-
9 table relief, including temporary, preliminary, or per-
10 manent injunctive relief.

11 (5) COSTS.—

12 (A) IN GENERAL.—In any action under
13 this section, the court shall award costs of liti-
14 gation, as well as reasonable attorney’s fees, to
15 any prevailing plaintiff.

16 (B) LIABILITY OF PLAINTIFFS.—A plain-
17 tiff shall not be liable to a defendant for costs
18 or attorney’s fees in any non-frivolous action
19 under this section unless such costs or attor-
20 ney’s fees are imposed by the court as part of
21 sanctions for violations committed during the
22 discovery process.

23 (6) JURISDICTION.—The district courts of the
24 United States shall have jurisdiction over pro-
25 ceedings under this section and shall exercise the

1 same without regard to whether the party aggrieved
2 shall have exhausted any administrative or other
3 remedies that may be provided for by law.

4 (7) RIGHT TO REMOVE.—

5 (A) IN GENERAL.—Any party shall have a
6 right to remove an action brought under this
7 subsection to the district court of the United
8 States for the district and division embracing
9 the place where such action is pending.

10 (B) REVIEW.—An order remanding the
11 case to the State court from which it was re-
12 moved under this paragraph is immediately re-
13 viewable by appeal or otherwise.

14 (d) REGULATIONS.—Not later than 180 days after
15 the date of enactment of this Act, the Secretary of Health
16 and Human Services shall promulgate regulations to carry
17 out this section.

18 (e) RULES OF CONSTRUCTION.—

19 (1) IN GENERAL.—For purposes of this title, a
20 State law, or the administration, implementation, or
21 enforcement of a State law, constitutes a prohibi-
22 tion, limitation, interference, or impediment on a
23 health care provider providing, an individual receiv-
24 ing, a health insurance issuer covering, or a manu-
25 facturer marketing drugs or devices for fertility

1 treatment, provided in accordance with widely ac-
2 cepted and evidence-based medical standards of care,
3 as described in subsection 104, if the administration,
4 implementation, interpretation, or enforcement of
5 such law has an effect that—

6 (A) imposes requirements or limitations
7 that are inconsistent with providing, receiving,
8 providing health insurance coverage for, or pro-
9 viding drugs or devices for fertility treatment in
10 accordance with widely accepted and evidence-
11 based medical standards of care or that other-
12 wise violate the purpose and requirements of
13 this Act, which may include—

14 (i) requiring that a health care pro-
15 vider provide, and patients undertake,
16 medically unnecessary procedures and serv-
17 ices, including tests and procedures, pro-
18 viding medically inaccurate information re-
19 garding fertility treatment, or requiring
20 additional unnecessary in-person visits to a
21 health care provider, that are inconsistent
22 with widely accepted and evidence-based
23 medical standards of care;

24 (ii) imposing limitations or require-
25 ments concerning physical offices, clinics,

1 facilities, equipment, staffing, or hospital
2 transfer arrangements of facilities where
3 fertility treatment is provided, or the cre-
4 dentials or hospital privileges or status of
5 personnel at such facilities, that are not
6 consistent with widely accepted and evi-
7 dence-based medical standards of care; or

8 (iii) limiting a health care provider's
9 right or ability to provide, or a patient's
10 right to receive, or imposing limitations
11 that reduce the efficacy of, fertility treat-
12 ment in accordance with widely accepted
13 and evidence-based medical standards of
14 care, including retrieval of multiple eggs
15 during oocyte retrieval; performance of in-
16 semination procedures, including intra-
17 uterine insemination; intracytoplasmic
18 sperm injections to fertilize multiple
19 human eggs; and cryopreservation of one
20 or more eggs or embryos for fertility pres-
21 ervation and subsequent transfer, if deter-
22 mined appropriate by the health care pro-
23 vider and patient;

24 (B) infringes, limits, or restricts the ability
25 of a health care provider, patient, health insur-

1 ance issuer, or manufacturer, to exercise or en-
2 force their statutory rights under this title on
3 the basis of marital status, sex (including sex-
4 ual orientation and gender identity) or any
5 other protected class that is covered by Federal
6 law;

7 (C) limits a health care provider's or pa-
8 tient's right or ability to determine the most ap-
9 propriate disposition of fertilized eggs or em-
10 bryos, including by defining a gamete or em-
11 bryo in such a way as to prevent the disposition
12 of gametes and embryos;

13 (D) limits a health care provider's ability
14 to provide, or a patient's ability to receive, fer-
15 tility treatment via telemedicine, in accordance
16 with widely accepted and evidence-based med-
17 ical standards of care;

18 (E) limits or prohibits a health care pro-
19 vider's ability to provide, or a patient's ability
20 to receive, fertility counseling or fertility treat-
21 ment based on the residency of the patient, or
22 prohibits or limits the ability of any individual
23 to assist or support a patient seeking fertility
24 treatment;

1 (F) imposes requirements or limitations
2 that compel health care providers to provide, or
3 patients to receive, medically unnecessary care,
4 or withhold medically necessary care, in a man-
5 ner that is not consistent with widely accepted
6 and evidence-based medical standards of care
7 for fertility treatment, including mandating the
8 transfer of embryos that a health care provider
9 would not reasonably expect, based on widely
10 accepted and evidence-based medical standards
11 of care, to lead to a healthy pregnancy or a live
12 birth;

13 (G) limits a health care provider's right or
14 ability to prescribe or dispense, or a patient's
15 right or ability to receive or use, medications
16 for fertility treatment in accordance with widely
17 accepted and evidence-based medical standards
18 of care, unless such a limitation is generally ap-
19 plicable to the prescription, dispensing, or dis-
20 tribution of medications; or

21 (H) limits a health care provider's right or
22 ability to perform a human sperm retrieval pro-
23 cedure in accordance with widely accepted and
24 evidence-based medical standards of care.

1 (2) CLARIFICATION.—The descriptions of spe-
2 cific State laws that would violate the statutory
3 rights and protections described in paragraph (1)
4 shall not be construed to limit potential violations of
5 the statutory rights and protections under this title
6 to only the restrictions and limitations listed in
7 paragraph (1), and potential violations of this title
8 may result from novel State restrictions and limita-
9 tions that are not listed under paragraph (1).

10 (3) EXCLUSION.—It shall not constitute a pro-
11 hibition, limitation, interference, or impediment to a
12 health care provider providing, an individual receiv-
13 ing, a health insurance issuer covering, or a manu-
14 facturer marketing a drug or device for purposes of,
15 fertility treatment under this title for an entity to
16 act in compliance with the Food and Drug Adminis-
17 tration’s regulation of drugs, devices, biological
18 products, human cells, tissues, or cellular or tissue-
19 based products used in fertility treatment, consistent
20 with widely accepted and evidence-based medical
21 standards of care for fertility treatment.

22 **SEC. 105. APPLICABILITY AND PREEMPTION.**

23 (a) IN GENERAL.—

24 (1) GENERAL APPLICATION.—

1 (A) EFFECT ON STATE LAW.—This title
2 supersedes any State law that is inconsistent
3 with the statutory rights established under this
4 title and precludes the implementation of such
5 a law, whether statutory, common law, or other-
6 wise, and whether adopted before or after the
7 date of enactment of this Act.

8 (B) PROHIBITION.—No State shall admin-
9 ister, implement, or enforce any law, rule, regu-
10 lation, standard, or other provision having the
11 force and effect of law that conflicts with any
12 provision of this title, notwithstanding any
13 other provision of Federal law.

14 (2) EXCLUSION.—Preemption of State law
15 under paragraph (1) does not apply to—

16 (A) State law regarding the resolution of
17 disputes between 2 individuals with rights de-
18 scribed in section 104(a)(1) with respect to the
19 same reproductive genetic material, such as oo-
20 cytes, sperm, fertilized eggs, and embryos; or

21 (B) any other State law, to the extent that
22 such law does not conflict with this title and
23 protects an individual’s right and ability to re-
24 ceive fertility treatment in accordance with
25 widely accepted and evidence-based medical

1 standards of care, including any such law that
2 holds a health care provider accountable for not
3 providing fertility treatment in accordance with
4 widely accepted and evidence-based medical
5 standards of care.

6 (3) PRESERVATION OF FEDERAL PUBLIC
7 HEALTH AUTHORITIES.—Nothing in this title shall
8 have the effect of superseding, negating, or limiting
9 provisions of Federal law, including the Federal
10 Food, Drug, and Cosmetic Act (21 U.S.C. 301 et
11 seq.) or the Public Health Service Act (42 U.S.C.
12 201 et seq.), and regulations promulgated under
13 such statutes, with respect to the regulation of
14 drugs, devices, biological products, human cells, tis-
15 sues, or cellular or tissue-based products used in fer-
16 tility treatment.

17 (4) PRESERVATION OF HIPAA RULES.—Nothing
18 in this title shall have the effect of superseding, ne-
19 gating, or limiting the provisions of the privacy, se-
20 curity, and breach notification regulations in parts
21 160 and 164 of title 45, Code of Federal Regula-
22 tions (or successor regulations).

23 (5) SUBSEQUENTLY ENACTED FEDERAL LEGIS-
24 LATION.—Federal statutory law adopted after the
25 date of the enactment of this Act is subject to this

1 title unless such law explicitly excludes such applica-
2 tion by reference to this title.

3 (b) DEFENSE.—In any cause of action against an in-
4 dividual or entity who is subject to a limitation or require-
5 ment that violates this title, in addition to the remedies
6 specified in section 104(b), this title shall also apply to,
7 and may be raised as a defense by, such an individual or
8 entity.

9 **TITLE II—VETERAN FAMILIES**
10 **HEALTH SERVICES**

11 **SEC. 200. SHORT TITLE.**

12 This title may be cited as the “Veteran Families
13 Health Services Act”.

14 **Subtitle A—Reproductive and Fer-**
15 **tility Preservation Assistance**
16 **for Members of the Uniformed**
17 **Services**

18 **SEC. 201. DEFINITIONS.**

19 In this subtitle:

20 (1) ACTIVE DUTY.—The term “active duty” has
21 the meaning given that term in section 101(18) of
22 title 37, United States Code.

23 (2) UNIFORMED SERVICES.—The term “uni-
24 formed services” has the meaning given that term in
25 section 101(a)(5) of title 10, United States Code.

1 **SEC. 202. PROVISION OF FERTILITY TREATMENT AND**
2 **COUNSELING TO CERTAIN MEMBERS OF THE**
3 **UNIFORMED SERVICES AND SPOUSES, PART-**
4 **NERS, AND GESTATIONAL SURROGATES OF**
5 **SUCH MEMBERS.**

6 (a) FERTILITY TREATMENT AND COUNSELING.—

7 (1) IN GENERAL.—The Secretary of Defense
8 shall make available fertility treatment and coun-
9 seling to a member of the uniformed services or a
10 spouse, partner, or gestational surrogate of such a
11 member.

12 (2) ELIGIBILITY FOR TREATMENT AND COUN-
13 SELING.—Fertility treatment and counseling shall be
14 furnished under paragraph (1) without regard to the
15 sex, sex characteristics, gender identity, sexual ori-
16 entation, infertility diagnosis, or marital status of
17 the member of the uniformed services or their part-
18 ner.

19 (3) IN VITRO FERTILIZATION.—In the case of
20 in vitro fertilization treatment furnished under para-
21 graph (1), the Secretary may furnish to an indi-
22 vidual under such paragraph—

23 (A) not more than three completed oocyte
24 retrievals; and

25 (B) unlimited embryo transfers.

1 (b) PROCUREMENT OF REPRODUCTIVE GENETIC MA-
2 TERIAL.—If a member of the uniformed services is unable
3 to provide their reproductive genetic material, such as oo-
4 cytes, sperm, fertilized eggs, and embryos, for purposes
5 of fertility treatment under subsection (a), the Secretary
6 shall, at the election of such member, allow such member
7 to receive such treatment with donated reproductive ge-
8 netic material and pay or reimburse such member the rea-
9 sonable costs of procuring such material from a donor.

10 (c) RULES OF CONSTRUCTION.—

11 (1) IMPACT ON EXISTING AUTHORITY.—Noth-
12 ing in this section shall be construed to rescind the
13 authority of the Secretary to provide in vitro fer-
14 tilization benefits pursuant to section 1074(c)(4) of
15 title 10, United States Code.

16 (2) SOURCING OF GESTATIONAL SURROGATE OR
17 REPRODUCTIVE GENETIC MATERIAL.—Nothing in
18 this section shall be construed to require the Sec-
19 retary—

20 (A) to find or certify a gestational surro-
21 gate for a member of the uniformed services or
22 to connect a gestational surrogate with such a
23 member; or

24 (B) to find or certify reproductive genetic
25 material, such as oocytes, sperm, fertilized eggs,

1 and embryos, from a donor for a member of the
2 uniformed services or to connect such a member
3 with reproductive genetic material from a
4 donor.

5 (d) DEFINITIONS.—In this section:

6 (1) FERTILITY TREATMENT.—The term “fer-
7 tility treatment” includes the following:

8 (A) Preservation of human oocytes, sperm,
9 or embryos for later reproductive use.

10 (B) Artificial insemination, including
11 intravaginal insemination, intracervical insemi-
12 nation, and intrauterine insemination.

13 (C) Assisted reproductive technology, in-
14 cluding in vitro fertilization and other treat-
15 ments or procedures in which reproductive ge-
16 netic material, such as oocytes, sperm, fertilized
17 eggs, and embryos, are handled, when clinically
18 appropriate.

19 (D) Genetic testing of embryos.

20 (E) Medications prescribed or obtained
21 over-the-counter, as indicated for fertility.

22 (F) Gamete donation.

23 (G) Such other information, referrals,
24 treatments, procedures, medications, laboratory
25 testing, technologies, and services relating to

1 fertility as the Secretary of Defense determines
2 appropriate.

3 (2) GESTATIONAL SURROGATE.—The term
4 “gestational surrogate” means an individual who
5 agrees to become pregnant through in vitro fertiliza-
6 tion under a gestational surrogacy agreement using
7 gametes that are not the gametes of that individual.

8 (3) PARTNER.—The term “partner”, with re-
9 spect to a member of the uniformed services, means
10 an individual selected by the member who agrees to
11 be a parent, with the member, of a child born as a
12 result of the use of any fertility treatment under this
13 section.

14 **SEC. 203. ESTABLISHMENT OF FERTILITY PRESERVATION**
15 **PROCEDURES AFTER AN INJURY OR ILLNESS.**

16 (a) IN GENERAL.—The Secretary of Defense, acting
17 through the Assistant Secretary of Defense for Health Af-
18 fairs, shall establish procedures for the retrieval of repro-
19 ductive genetic material, such as oocytes, sperm, fertilized
20 eggs, and embryos, as soon as medically appropriate, from
21 a member of the uniformed services in cases in which the
22 fertility of such member is potentially jeopardized as a re-
23 sult of an injury or illness incurred or aggravated while
24 serving on active duty in the uniformed services in order
25 to preserve the medical options of such member.

1 (b) INCLUSION OF INFORMATION IN ADVANCED DI-
2 RECTIVES AND MILITARY TESTAMENTARY INSTRU-
3 MENTS.—The Secretary of Defense shall ensure that any
4 advance medical directive, as defined in section 1044c(b)
5 of title 10, United States Code, or military testamentary
6 instrument, as defined in section 1044d(b) of such title,
7 completed by a member of the uniformed services includes
8 questions about the consent of the member to fertility
9 preservation procedures under subsection (a).

10 (c) DISPOSAL OF REPRODUCTIVE GENETIC MATE-
11 RIAL.—Subject to section 204, in accordance with regula-
12 tions prescribed by the Secretary for purpose of this sub-
13 section, the Secretary shall dispose of reproductive genetic
14 material retrieved from a member of the uniformed serv-
15 ices under subsection (a)—

16 (1) with the specific consent of the member; or

17 (2) if the member—

18 (A) has lost the ability to consent perma-
19 nently, as determined by a medical professional,
20 or has died; and

21 (B) has not specified the use of their re-
22 productive genetic material in an advance direc-
23 tive or testamentary instrument executed by the
24 member.

1 **SEC. 204. CRYOPRESERVATION AND STORAGE OF REPRO-**
2 **DUCTIVE GENETIC MATERIAL OF MEMBERS**
3 **OF THE UNIFORMED SERVICES ON ACTIVE**
4 **DUTY.**

5 (a) IN GENERAL.—The Secretary of Defense shall
6 provide members of the uniformed services on active duty
7 in the uniformed services with the opportunity to
8 cryopreserve and store their reproductive genetic material,
9 such as oocytes, sperm, fertilized eggs, and embryos, prior
10 to—

11 (1) deployment to a combat zone; or

12 (2) a duty assignment that includes a haz-
13 arduous assignment, including—

14 (A) assignments resulting in exposure to
15 perfluoroalkyl or polyfluoroalkyl substances;
16 and

17 (B) such other assignments as determined
18 by the Secretary.

19 (b) PERIOD OF TIME.—

20 (1) IN GENERAL.—The Secretary shall provide
21 for the cryopreservation and storage of reproductive
22 genetic material of any member of the uniformed
23 services under subsection (a) in a facility of the De-
24 partment of Defense or of a private entity and the
25 transportation of such material, at no cost to the
26 member, until the date that is one year after the re-

1 tirement, separation, or release of the member from
2 the uniformed services.

3 (2) CONTINUED CRYOPRESERVATION AND
4 STORAGE.—At the end of the one-year period speci-
5 fied in paragraph (1), the Secretary shall permit an
6 individual whose reproductive genetic material was
7 cryopreserved and stored as described in that para-
8 graph to select, including pursuant to an advance
9 medical directive or military testamentary instru-
10 ment completed under subsection (c), one of the fol-
11 lowing options:

12 (A) To continue such cryopreservation and
13 storage in such facility with the cost of such
14 cryopreservation and storage borne by the indi-
15 vidual.

16 (B) To transfer the material to a private
17 cryopreservation and storage facility selected by
18 the individual.

19 (C) To transfer the material to a facility of
20 the Department of Veterans Affairs if
21 cryopreservation and storage is available to the
22 individual at such facility and the individual is
23 eligible for such services.

24 (3) DISPOSAL OF REPRODUCTIVE GENETIC MA-
25 TERIAL.—

1 (A) NO SELECTION.—If an individual de-
2 scribed in paragraph (2) does not make a selec-
3 tion under subparagraph (A), (B), or (C) of
4 such paragraph, the Secretary may dispose of
5 the reproductive genetic material of the indi-
6 vidual not earlier than the date that is 90 days
7 after the end of the one-year period specified in
8 paragraph (1) with respect to the individual.

9 (B) ELECTION BY INDIVIDUAL.—At the
10 election of an individual described in paragraph
11 (2), the Secretary may dispose of the reproduc-
12 tive genetic material of the individual.

13 (c) ADVANCE MEDICAL DIRECTIVE AND MILITARY
14 TESTAMENTARY INSTRUMENT.—A member of the uni-
15 formed services who elects to cryopreserve and store their
16 reproductive genetic material under this section must com-
17 plete an advance medical directive, as defined in section
18 1044c(b) of title 10, United States Code, and a military
19 testamentary instrument, as defined in section 1044d(b)
20 of such title, that explicitly specifies the use of their
21 cryopreserved and stored reproductive genetic material if
22 such member dies or otherwise loses the capacity to con-
23 sent to the use of their cryopreserved and stored reproduc-
24 tive genetic material.

1 (d) AGREEMENTS.—To carry out this section, the
2 Secretary may enter into agreements with private entities
3 that provide cryopreservation, transportation, and storage
4 services for reproductive genetic material.

5 **SEC. 205. ASSISTANCE WITH AND CONTINUITY OF CARE RE-**
6 **GARDING REPRODUCTIVE AND FERTILITY**
7 **PRESERVATION SERVICES.**

8 The Secretary of Defense shall ensure that employees
9 of the Department of Defense assist members of the uni-
10 formed services—

11 (1) in navigating the services provided under
12 this subtitle;

13 (2) in finding a provider that meets the needs
14 of such members with respect to such services; and

15 (3) in continuing the receipt of such services
16 without interruption during a permanent change of
17 station for such members.

18 **SEC. 206. COORDINATION BETWEEN DEPARTMENT OF DE-**
19 **FENSE AND DEPARTMENT OF VETERANS AF-**
20 **FAIRS ON FURNISHING OF FERTILITY TREAT-**
21 **MENT AND COUNSELING.**

22 (a) IN GENERAL.—The Secretary of Defense and the
23 Secretary of Veterans Affairs shall share best practices
24 and facilitate referrals, as they consider appropriate, on
25 the furnishing of fertility treatment and counseling to in-

1 individuals eligible for the receipt of such counseling and
2 treatment from the Secretaries.

3 (b) MEMORANDUM OF UNDERSTANDING.—The Sec-
4 retary of Defense and the Secretary of Veterans Affairs
5 shall enter into a memorandum of understanding—

6 (1) providing that the Secretary of Defense will
7 ensure access by the Secretary of Veterans Affairs
8 to reproductive genetic material, such as oocytes,
9 sperm, fertilized eggs, and embryos, of veterans
10 stored by the Department of Defense for purposes of
11 furnishing fertility treatment under section 1720K
12 of title 38, United States Code, as added by section
13 212(a); and

14 (2) authorizing the Department of Veterans Af-
15 fairs to compensate the Department of Defense for
16 the cryopreservation, transportation, and storage of
17 reproductive genetic material of veterans under sec-
18 tion 204(b)(2)(A).

19 **SEC. 207. REGULATIONS.**

20 Not later than two years after the date of the enact-
21 ment of this Act, the Secretary of Defense shall prescribe
22 regulations to carry out this subtitle.

1 **Subtitle B—Reproductive**
2 **Assistance for Veterans**

3 **SEC. 211. INCLUSION OF FERTILITY TREATMENT AND**
4 **COUNSELING UNDER THE DEFINITION OF**
5 **MEDICAL SERVICES IN TITLE 38.**

6 Section 1701(6) of title 38, United States Code, is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(J) Fertility treatment and counseling
10 under section 1720K of this title.”.

11 **SEC. 212. FERTILITY TREATMENT AND COUNSELING FOR**
12 **CERTAIN VETERANS AND SPOUSES, PART-**
13 **NERS, AND GESTATIONAL SURROGATES OF**
14 **SUCH VETERANS.**

15 (a) IN GENERAL.—Subchapter II of chapter 17 of
16 title 38, United States Code, is amended by adding at the
17 end the following new section:

18 **“§ 1720K. Fertility treatment and counseling for cer-**
19 **tain veterans and spouses, partners, and**
20 **gestational surrogates of such veterans**

21 “(a) REQUIREMENT.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of law, including the surrogacy laws of any
24 State, the Secretary shall furnish fertility treatment
25 and counseling for the benefit of a covered veteran

1 to the veteran and the spouse, partner, gamete
2 donor, or gestational surrogate of the veteran if the
3 veteran, and the spouse, partner, gamete donor, or
4 gestational surrogate of the veteran, as applicable,
5 each provide informed consent for such treatment
6 and counseling, including for each cycle of treatment
7 authorized under this section, through a process pre-
8 scribed by the Secretary.

9 “(2) PROVISION OF TREATMENT AND COUN-
10 SELING.—Fertility treatment and counseling shall be
11 furnished under paragraph (1) without regard to the
12 sex, sexual characteristics, gender identity, sexual
13 orientation, infertility diagnosis, or marital status of
14 the covered veteran or their partner.

15 “(3) IN VITRO FERTILIZATION.—In the case of
16 in vitro fertilization treatment furnished under para-
17 graph (1), the Secretary may furnish to an indi-
18 vidual under such paragraph—

19 “(A) not more than three completed oocyte
20 retrievals; and

21 “(B) unlimited embryo transfers.

22 “(4) COPAYMENT.—The Secretary shall only
23 furnish fertility treatment and counseling under
24 paragraph (1) to a covered veteran who is required
25 to pay to the United States a copayment amount as

1 a condition for the receipt of hospital care, medical
2 services, or medications under this chapter if the
3 covered veteran agrees to pay such applicable copay-
4 ment amount to the United States for such treat-
5 ment and counseling.

6 “(b) PROCUREMENT OF REPRODUCTIVE GENETIC
7 MATERIAL.—

8 “(1) IN GENERAL.—If a covered veteran is un-
9 able to provide their reproductive genetic material
10 for purposes of fertility treatment under subsection
11 (a), the Secretary shall, at the election of such vet-
12 eran—

13 “(A) allow such veteran to receive such
14 treatment with donated reproductive genetic
15 material, if the donor provides informed consent
16 for use of such material; and

17 “(B) pay or reimburse the veteran, donor,
18 or a party acting on behalf of the donor the
19 reasonable costs of procuring such material
20 from the donor.

21 “(2) OTHER EXPENSES.—The Secretary may
22 pay or reimburse a covered veteran a reasonable
23 amount for personal travel and incidental expenses
24 associated with procuring material from a donor
25 under paragraph (1).

1 “(c) OUTREACH AND TRAINING.—The Secretary
2 shall carry out an outreach and training program to en-
3 sure veterans and health care providers of the Department
4 are aware of—

5 “(1) the availability of and eligibility require-
6 ments for fertility treatment and counseling under
7 this section; and

8 “(2) any changes to fertility treatment and
9 counseling covered under this section.

10 “(d) OWNERSHIP, USE, OR DISPOSITION OF REPRO-
11 DUCTIVE GENETIC MATERIAL.—

12 “(1) IN GENERAL.—Issues or disputes regard-
13 ing ownership of reproductive genetic material or fu-
14 ture use or disposition of such material shall be the
15 sole responsibility of the covered veteran, the spouse,
16 partner, or gestational surrogate of the veteran, as
17 applicable, and the private facility storing such ma-
18 terial.

19 “(2) AGREEMENT REGARDING DONATED RE-
20 PRODUCTIVE GENETIC MATERIAL.—As a condition
21 of the use of donated gametes or embryos under this
22 section, the third-party donor and a provider of fer-
23 tility treatment that has entered into a contract or
24 agreement with the Secretary to provide such treat-
25 ment under this section are required to enter into an

1 arrangement or agreement governing the terms of
2 the donation, to include ultimate disposition of any
3 remaining gametes or embryos once a covered vet-
4 eran has exhausted the fertility treatment available
5 under this section, unless the veteran or the spouse
6 or partner of the veteran has agreed to assume li-
7 ability for the continued preservation of any remain-
8 ing gametes or embryos and the Department is not
9 party to the arrangement or agreement for such con-
10 tinued preservation.

11 “(3) ROLE OF DEPARTMENT.—The role of the
12 Secretary under this section is limited to furnishing
13 the treatment and counseling required under this
14 section when requested by a covered veteran and de-
15 termined necessary by the Secretary.

16 “(4) OWNERSHIP AND CUSTODY OF REPRODUC-
17 TIVE GENETIC MATERIAL.—The Secretary will not
18 have ownership or custody of any reproductive ge-
19 netic material obtained pursuant to treatment under
20 this section and will not be involved in the ultimate
21 disposition of such material or disputes between or
22 among any parties with respect to such material.

23 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion shall be construed to require the Secretary—

1 “(1) to find or certify a gestational surrogate
2 for a covered veteran or to connect a gestational sur-
3 rogate with a covered veteran; or

4 “(2) to furnish maternity care to a covered vet-
5 eran or spouse, partner, or gestational surrogate of
6 a covered veteran beyond what is otherwise required
7 or authorized by law.

8 “(f) DEFINITIONS.—In this section:

9 “(1) The term ‘covered veteran’ means a vet-
10 eran who is enrolled in the system of annual patient
11 enrollment established under section 1705(a) of this
12 title.

13 “(2) The term ‘fertility treatment’ includes the
14 following:

15 “(A) Preservation of human oocytes,
16 sperm, or embryos for later reproductive use.

17 “(B) Artificial insemination, including
18 intravaginal insemination, intracervical insemi-
19 nation, and intrauterine insemination.

20 “(C) Assisted reproductive technology, in-
21 cluding in vitro fertilization and other treat-
22 ments or procedures in which reproductive ge-
23 netic material, such as oocytes, sperm, fertilized
24 eggs, and embryos, are handled, when clinically
25 appropriate.

1 “(D) Genetic testing of embryos.

2 “(E) Medications prescribed or obtained
3 over-the-counter, as indicated for fertility.

4 “(F) Gamete donation.

5 “(G) Such other information, referrals,
6 treatments, procedures, medications, laboratory
7 testing, technologies, and services relating to
8 fertility as the Secretary determines appro-
9 priate.

10 “(3) The term ‘gestational surrogate’ means an
11 individual who agrees to become pregnant through in
12 vitro fertilization under a gestational surrogacy
13 agreement using gametes that are not the gametes
14 of that individual.

15 “(4) The term ‘partner’, with respect to a cov-
16 ered veteran, means an individual selected by the
17 veteran who agrees to be a parent, with the veteran,
18 of a child born as a result of the use of any fertility
19 treatment under this section.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of subchapter II of chapter 17 of such
22 title is amended by inserting after the item relating to sec-
23 tion 1720J the following new item:

“1720K. Fertility treatment and counseling for certain veterans and spouses,
partners, and gestational surrogates of such veterans.”.

1 (c) SUNSET OF EXISTING AUTHORITY.—The author-
2 ity under section 234 of the Military Construction, Vet-
3 erans Affairs, and Related Agencies Appropriations Act,
4 2024 (division A of Public Law 118–42), or any similar
5 authority subsequently enacted by law, shall cease on the
6 effective date of regulations prescribed to carry out section
7 1720K of title 38, United States Code, as added by sub-
8 section (a).

9 **SEC. 213. ASSISTANCE WITH AND CONTINUITY OF CARE RE-**
10 **GARDING REPRODUCTIVE AND FERTILITY**
11 **PRESERVATION SERVICES.**

12 The Secretary of Veterans Affairs shall ensure that
13 employees of the Department of Veterans Affairs assist
14 veterans—

15 (1) in navigating the services provided under
16 this subtitle and the amendments made by this sub-
17 title;

18 (2) in finding a provider that meets the needs
19 of such veterans with respect to such services; and

20 (3) in continuing the receipt of such services
21 without interruption if such veterans move to a dif-
22 ferent geographic location.

1 **SEC. 214. COORDINATION OF REPRODUCTION AND FER-**
2 **TILITY RESEARCH FOR VETERANS.**

3 (a) IN GENERAL.—Subchapter II of chapter 73 of
4 title 38, United States Code, is amended by adding at the
5 end the following new section:

6 **“§ 7330E. Coordination of reproduction and fertility**
7 **research for veterans**

8 “(a) COORDINATION OF RESEARCH REQUIRED.—The
9 Secretary shall coordinate with the Secretary of Defense
10 and the Secretary of Health and Human Services to con-
11 duct research to improve the ability of the Department
12 of Veterans Affairs to meet the long-term reproductive
13 health care needs of veterans who have a condition that
14 affects the ability of the individual to reproduce.

15 “(b) DISSEMINATION OF INFORMATION.—The Sec-
16 retary shall ensure that information produced by the re-
17 search under this section that may be useful for other ac-
18 tivities of the Department is disseminated throughout the
19 Department.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of subchapter II of chapter 73 of such
22 title is amended by inserting after the item relating to sec-
23 tion 7330D the following new item:

“7330E. Coordination of reproduction and fertility research for veterans.”.

1 **TITLE III—ACCESS TO FER-**
2 **TILITY TREATMENT AND**
3 **CARE**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Access to Fertility
6 Treatment and Care Act”.

7 **SEC. 302. STANDARDS RELATING TO BENEFITS FOR FER-**
8 **TILITY TREATMENT.**

9 (a) IN GENERAL.—

10 (1) PHSA.—Part D of title XXVII of the Pub-
11 lic Health Service Act (42 U.S.C. 300gg–111 et
12 seq.) is amended by adding at the end the following:

13 **“SEC. 2799A–11. STANDARDS RELATING TO BENEFITS FOR**
14 **FERTILITY TREATMENT.**

15 “(a) IN GENERAL.—A group health plan or a health
16 insurance issuer offering group or individual health insur-
17 ance coverage shall provide coverage for fertility treat-
18 ment, if such plan or coverage provides coverage for ob-
19 stetrical services.

20 “(b) DEFINITION.—In this section, the term ‘fertility
21 treatment’ includes the following:

22 “(1) Preservation of human oocytes, sperm, or
23 embryos for later reproductive use.

1 “(2) Artificial insemination, including
2 intravaginal insemination, intracervical insemination,
3 and intrauterine insemination.

4 “(3) Assisted reproductive technology, including
5 in vitro fertilization and other treatments or proce-
6 dures in which reproductive genetic material, such as
7 oocytes, sperm, fertilized eggs, and embryos, are
8 handled, when clinically appropriate.

9 “(4) Genetic testing of embryos.

10 “(5) Medications prescribed or obtained over-
11 the-counter, as indicated for fertility.

12 “(6) Gamete donation.

13 “(7) Such other information, referrals, treat-
14 ments, procedures, medications, laboratory testing,
15 technologies, and services relating to fertility as the
16 Secretary determines appropriate.

17 “(c) REQUIRED COVERAGE.—A group health plan
18 and a health insurance issuer offering group or individual
19 health insurance coverage that includes coverage for ob-
20 stetrical services shall provide coverage for fertility treat-
21 ment determined appropriate by the health care provider,
22 regardless of whether the participant, beneficiary, or en-
23 rollee receiving such treatment has been diagnosed with
24 infertility as defined by the American Society for Repro-
25 ductive Medicine, if the treatment is performed at, or pre-

1 scribed by, a medical facility that is in compliance with
2 relevant standards set by an appropriate Federal agency.

3 “(d) LIMITATION.—Cost-sharing, including
4 deductibles and coinsurance, or other limitations for fer-
5 tility treatment may not be imposed with respect to the
6 services required to be covered under subsection (c) to the
7 extent that such cost-sharing exceeds the cost-sharing ap-
8 plied to other medical services under the group health plan
9 or health insurance coverage or such other limitations are
10 different from limitations imposed with respect to such
11 medical services, except where such limitation is more fa-
12 vorable with respect to fertility treatment. The Secretary
13 shall promulgate interim final regulations to carry out this
14 subsection, notwithstanding the notice and comment re-
15 quirements of section 553 of title 5, United States Code.

16 “(e) PROHIBITIONS.—A group health plan and a
17 health insurance issuer offering group or individual health
18 insurance coverage may not—

19 “(1) provide incentives (monetary or otherwise)
20 to a participant, beneficiary, or enrollee to encourage
21 such participant, beneficiary, or enrollee not to seek
22 or obtain fertility treatment to which such partici-
23 pant, beneficiary, or enrollee is entitled under this
24 section or to providers to induce such providers not

1 to provide medically appropriate fertility treatments
2 to participants, beneficiaries, or enrollees;

3 “(2) prohibit a provider from discussing with a
4 participant, beneficiary, or enrollee fertility treat-
5 ment relating to this section;

6 “(3) penalize or otherwise reduce or limit the
7 reimbursement of a provider because such provider
8 provided fertility treatment to a qualified partici-
9 pant, beneficiary, or enrollee in accordance with this
10 section; or

11 “(4) on the ground prohibited under title VI of
12 the Civil Rights Act of 1964, title IX of the Edu-
13 cation Amendments of 1972, the Age Discrimination
14 Act of 1975, section 504 of the Rehabilitation Act
15 of 1973, or section 1557 of the Patient Protection
16 and Affordable Care Act, exclude any individual
17 from coverage in accordance with this section, or
18 discriminate against any individual with respect to
19 such coverage.

20 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to require a participant, bene-
22 ficiary, or enrollee to undergo fertility treatment.

23 “(g) NOTICE.—A group health plan and a health in-
24 surance issuer offering group or individual health insur-
25 ance coverage shall provide notice to each participant, ben-

1 eficiary, and enrollee under such plan or coverage regard-
2 ing the coverage required by this section in accordance
3 with regulations promulgated by the Secretary. Such no-
4 tice shall be in writing and prominently positioned in any
5 literature or correspondence made available or distributed
6 by the plan or issuer and shall be transmitted—

7 “(1) not later than the earlier of—

8 “(A) in the first standard mailing made by
9 the plan or issuer to the participant, bene-
10 ficiary, or enrollee following the effective date of
11 such regulations;

12 “(B) as part of any yearly informational
13 packet sent to the participant, beneficiary, or
14 enrollee; or

15 “(C) January 1, 2026;

16 “(2) in the case of a participant, beneficiary, or
17 enrollee not enrolled in the plan or coverage on the
18 date of transmission under paragraph (1), upon ini-
19 tial enrollment of such participant, beneficiary, or
20 enrollee; and

21 “(3) on an annual basis after the transmission
22 under paragraph (1) or (2).

23 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
24 Nothing in this section shall be construed to prevent a
25 group health plan or a health insurance issuer offering

1 group or individual health insurance coverage from negoti-
2 ating the level and type of reimbursement with a provider
3 for care provided in accordance with this section.”.

4 (2) ERISA.—

5 (A) IN GENERAL.—Subpart B of part 7 of
6 subtitle B of title I of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1185
8 et seq.) is amended by adding at the end the
9 following:

10 **“SEC. 726. STANDARDS RELATING TO BENEFITS FOR FER-**
11 **TILITY TREATMENT.**

12 “(a) IN GENERAL.—A group health plan or a health
13 insurance issuer offering group health insurance coverage
14 shall provide coverage for fertility treatment, if such plan
15 or coverage provides coverage for obstetrical services.

16 “(b) DEFINITION.—In this section, the term ‘fertility
17 treatment’ includes the following:

18 “(1) Preservation of human oocytes, sperm, or
19 embryos for later reproductive use.

20 “(2) Artificial insemination, including
21 intravaginal insemination, intracervical insemination,
22 and intrauterine insemination.

23 “(3) Assisted reproductive technology, including
24 in vitro fertilization and other treatments or proce-
25 dures in which reproductive genetic material, such as

1 oocytes, sperm, fertilized eggs, and embryos, are
2 handled, when clinically appropriate.

3 “(4) Genetic testing of embryos.

4 “(5) Medications prescribed or obtained over-
5 the-counter, as indicated for fertility.

6 “(6) Gamete donation.

7 “(7) Such other information, referrals, treat-
8 ments, procedures, medications, laboratory testing,
9 technologies, and services relating to fertility as the
10 Secretary of Health and Human Services determines
11 appropriate.

12 “(c) REQUIRED COVERAGE.—A group health plan
13 and a health insurance issuer offering group health insur-
14 ance coverage that includes coverage for obstetrical serv-
15 ices shall provide coverage for fertility treatment deter-
16 mined appropriate by the health care provider, regardless
17 of whether the participant or beneficiary receiving such
18 treatment has been diagnosed with infertility as defined
19 by the American Society for Reproductive Medicine, if the
20 treatment is performed at, or prescribed by, a medical fa-
21 cility that is in compliance with relevant standards set by
22 an appropriate Federal agency.

23 “(d) LIMITATION.—Cost-sharing, including
24 deductibles and coinsurance, or other limitations for fer-
25 tility treatment may not be imposed with respect to the

1 services required to be covered under subsection (c) to the
2 extent that such cost-sharing exceeds the cost-sharing ap-
3 plied to other medical services under the group health plan
4 or health insurance coverage or such other limitations are
5 different from limitations imposed with respect to such
6 medical services, except where such limitation is more fa-
7 vorable with respect to fertility treatment. The Secretary
8 shall promulgate interim final regulations to carry out this
9 subsection, notwithstanding the notice and comment re-
10 quirements of section 553 of title 5, United States Code.

11 “(e) PROHIBITIONS.—A group health plan and a
12 health insurance issuer offering group health insurance
13 coverage may not—

14 “(1) provide incentives (monetary or otherwise)
15 to a participant or beneficiary to encourage such
16 participant or beneficiary not to seek or obtain fer-
17 tility treatment to which such participant or bene-
18 ficiary is entitled under this section or to providers
19 to induce such providers not to provide medically ap-
20 propriate fertility treatments to participants or bene-
21 ficiaries;

22 “(2) prohibit a provider from discussing with a
23 participant or beneficiary fertility treatment relating
24 to this section;

1 “(3) penalize or otherwise reduce or limit the
2 reimbursement of a provider because such provider
3 provided fertility treatment to a qualified participant
4 or beneficiary in accordance with this section; or

5 “(4) on the ground prohibited under title VI of
6 the Civil Rights Act of 1964 (42 U.S.C. 2000d et
7 seq.), title IX of the Education Amendments of 1972
8 (20 U.S.C. 1681 et seq.), the Age Discrimination
9 Act of 1975 (42 U.S.C. 6101 et seq.), section 504
10 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
11 or section 1557 of the Patient Protection and Af-
12 fordable Care Act (42 U.S.C. 18116), exclude any
13 individual from coverage in accordance with this sec-
14 tion, or discriminate against any individual with re-
15 spect to such coverage.

16 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to require a participant or bene-
18 ficiary to undergo fertility treatment.

19 “(g) NOTICE.—A group health plan and a health in-
20 surance issuer offering group health insurance coverage
21 shall provide notice to each participant and beneficiary
22 under such plan or coverage regarding the coverage re-
23 quired by this section in accordance with regulations pro-
24 mulgated by the Secretary. Such notice shall be in writing
25 and prominently positioned in any literature or cor-

1 response made available or distributed by the plan or
2 issuer and shall be transmitted—

3 “(1) not later than the earlier of—

4 “(A) in the first standard mailing made by
5 the plan or issuer to the participant or bene-
6 ficiary following the effective date of such regu-
7 lations;

8 “(B) as part of any yearly informational
9 packet sent to the participant or beneficiary; or

10 “(C) January 1, 2026;

11 “(2) in the case of a participant or beneficiary
12 not enrolled in the plan or coverage on the date of
13 transmission under paragraph (1), upon initial en-
14 rollment of such participant or beneficiary; and

15 “(3) on an annual basis after the transmission
16 under paragraph (1) or (2).

17 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—

18 Nothing in this section shall be construed to prevent a
19 group health plan or a health insurance issuer offering
20 group health insurance coverage from negotiating the level
21 and type of reimbursement with a provider for care pro-
22 vided in accordance with this section.”.

23 (B) CLERICAL AMENDMENT.—The table of
24 contents in section 1 of the Employee Retirement
25 Income Security Act of 1974 (29 U.S.C.

1 1001 et seq.) is amended by inserting after the
2 item relating to section 725 the following new
3 item:

“Sec. 726. Standards relating to benefits for fertility treatment.”.

4 (3) IRC.—

5 (A) IN GENERAL.—Subchapter B of chap-
6 ter 100 of the Internal Revenue Code of 1986
7 is amended by adding at the end the following:

8 **“SEC. 9826. STANDARDS RELATING TO BENEFITS FOR FER-**
9 **TILITY TREATMENT.**

10 “(a) IN GENERAL.—A group health plan shall pro-
11 vide coverage for fertility treatment, if such plan provides
12 coverage for obstetrical services.

13 “(b) DEFINITION.—In this section, the term ‘fertility
14 treatment’ includes the following:

15 “(1) Preservation of human oocytes, sperm, or
16 embryos for later reproductive use.

17 “(2) Artificial insemination, including
18 intravaginal insemination, intracervical insemination,
19 and intrauterine insemination.

20 “(3) Assisted reproductive technology, including
21 in vitro fertilization and other treatments or proce-
22 dures in which reproductive genetic material, such as
23 oocytes, sperm, fertilized eggs, and embryos, are
24 handled, when clinically appropriate.

25 “(4) Genetic testing of embryos.

1 “(5) Medications prescribed or obtained over-
2 the-counter, as indicated for fertility.

3 “(6) Gamete donation.

4 “(7) Such other information, referrals, treat-
5 ments, procedures, medications, laboratory testing,
6 technologies, and services relating to fertility as the
7 Secretary of Health and Human Services determines
8 appropriate.

9 “(c) REQUIRED COVERAGE.—A group health plan
10 that includes coverage for obstetrical services shall provide
11 coverage for fertility treatment determined appropriate by
12 the health care provider, regardless of whether the partici-
13 pant or beneficiary receiving such treatment has been di-
14 agnosed with infertility as defined by the American Society
15 for Reproductive Medicine, if the treatment is performed
16 at, or prescribed by, a medical facility that is in compli-
17 ance with relevant standards set by an appropriate Fed-
18 eral agency.

19 “(d) LIMITATION.—Cost-sharing, including
20 deductibles and coinsurance, or other limitations for fer-
21 tility treatment may not be imposed with respect to the
22 services required to be covered under subsection (c) to the
23 extent that such cost-sharing exceeds the cost-sharing ap-
24 plied to other medical services under the group health plan
25 or health insurance coverage or such other limitations are

1 different from limitations imposed with respect to such
2 medical services, except where such limitation is more fa-
3 vorable with respect to fertility treatment. The Secretary
4 shall promulgate interim final regulations to carry out this
5 subsection, notwithstanding the notice and comment re-
6 quirements of section 553 of title 5, United States Code.

7 “(e) PROHIBITIONS.—A group health plan may not—

8 “(1) provide incentives (monetary or otherwise)
9 to a participant or beneficiary to encourage such
10 participant or beneficiary not to seek or obtain fer-
11 tility treatment to which such participant or bene-
12 ficiary is entitled under this section or to providers
13 to induce such providers not to provide medically ap-
14 propriate fertility treatments to participants or bene-
15 ficiaries;

16 “(2) prohibit a provider from discussing with a
17 participant or beneficiary fertility treatment relating
18 to this section;

19 “(3) penalize or otherwise reduce or limit the
20 reimbursement of a provider because such provider
21 provided fertility treatment to a qualified participant
22 or beneficiary in accordance with this section; or

23 “(4) on the ground prohibited under title VI of
24 the Civil Rights Act of 1964 (42 U.S.C. 2000d et
25 seq.), title IX of the Education Amendments of 1972

1 (20 U.S.C. 1681 et seq.), the Age Discrimination
2 Act of 1975 (42 U.S.C. 6101 et seq.), section 504
3 of the Rehabilitation Act of 1973 (29 U.S.C. 794),
4 or section 1557 of the Patient Protection and Af-
5 fordable Care Act (42 U.S.C. 18116), exclude any
6 individual from coverage in accordance with this sec-
7 tion, or discriminate against any individual with re-
8 spect to such coverage.

9 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion shall be construed to require a participant or bene-
11 ficiary to undergo fertility treatment.

12 “(g) NOTICE.—A group health plan shall provide no-
13 tice to each participant and beneficiary under such plan
14 regarding the coverage required by this section in accord-
15 ance with regulations promulgated by the Secretary. Such
16 notice shall be in writing and prominently positioned in
17 any literature or correspondence made available or distrib-
18 uted by the plan and shall be transmitted—

19 “(1) not later than the earlier of—

20 “(A) in the first standard mailing made by
21 the plan to the participant or beneficiary fol-
22 lowing the effective date of such regulations;

23 “(B) as part of any yearly informational
24 packet sent to the participant or beneficiary; or

25 “(C) January 1, 2026;

1 “(2) in the case of a participant or beneficiary
2 not enrolled in the plan on the date of transmission
3 under paragraph (1), upon initial enrollment of such
4 participant or beneficiary; and

5 “(3) on an annual basis after the transmission
6 under paragraph (1) or (2).

7 “(h) LEVEL AND TYPE OF REIMBURSEMENTS.—
8 Nothing in this section shall be construed to prevent a
9 group health plan from negotiating the level and type of
10 reimbursement with a provider for care provided in ac-
11 cordance with this section.”.

12 (B) CLERICAL AMENDMENT.—The table of
13 sections for subchapter B of chapter 100 of the
14 Internal Revenue Code of 1986 is amended by
15 adding at the end the following new item:

“Sec. 9826. Standards relating to benefits for fertility treatment.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) PHSA.—Section 2724(c) of the Public
18 Health Service Act (42 U.S.C. 300gg-23(c)) is
19 amended by striking “section 2704” and inserting
20 “sections 2704 and 2799A-11”.

21 (2) ERISA.—Section 731(c) of the Employee
22 Retirement Income Security Act of 1974 (29 U.S.C.
23 1191(c)) is amended by striking “section 711” and
24 inserting “sections 711 and 726”.

25 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 subsections (a) and (b) shall apply for plan years be-
3 ginning on or after the date that is 6 months after
4 the date of enactment of this Act.

5 (2) COLLECTIVE BARGAINING EXCEPTION.—

6 (A) IN GENERAL.—In the case of a group
7 health plan maintained pursuant to one or more
8 collective bargaining agreements between em-
9 ployee representatives and one or more employ-
10 ers ratified before the date of enactment of this
11 Act, the amendments made by subsection (a)
12 shall not apply to plan years beginning before
13 the later of—

14 (i) the date on which the last collec-
15 tive bargaining agreements relating to the
16 plan terminates (determined without re-
17 gard to any extension thereof agreed to
18 after the date of enactment of this Act), or

19 (ii) the date occurring 6 months after
20 the date of the enactment of this Act.

21 (B) CLARIFICATION.—For purposes of
22 subparagraph (A), any plan amendment made
23 pursuant to a collective bargaining agreement
24 relating to the plan which amends the plan sole-
25 ly to conform to any requirement added by sub-

1 section (a) shall not be treated as a termination
2 of such collective bargaining agreement.

3 **SEC. 303. REQUIREMENT FOR STATE MEDICAID PLANS TO**
4 **PROVIDE MEDICAL ASSISTANCE FOR FER-**
5 **TILITY TREATMENT.**

6 (a) IN GENERAL.—Section 1905 of the Social Secu-
7 rity Act (42 U.S.C. 1396d) is amended—

8 (1) in subsection (a)(4)(C), by inserting
9 “(which shall include fertility treatment provided in
10 accordance with subsection (kk))” after “family
11 planning services and supplies”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(kk) REQUIREMENTS FOR COVERAGE OF FERTILITY
15 TREATMENT.—For purposes of subsection (a)(4)(C), a
16 State shall ensure that the medical assistance provided
17 under the State plan (or waiver of such plan) for fertility
18 treatment complies with the requirements of section
19 2799A–11(b) of the Public Health Service Act in the same
20 manner as such requirements and limitations apply to
21 health insurance coverage offered by a group health plan
22 or health insurance issuer.”.

23 (b) TECHNICAL AMENDMENT.—Section 1903(a)(5)
24 of the Social Security Act (42 U.S.C. 1396b(a)(5)) is
25 amended by inserting “described in section

1 1905(a)(4)(C)” after “family planning services and sup-
2 plies”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall take effect on October 1, 2025.

7 (2) DELAY PERMITTED IF STATE LEGISLATION
8 REQUIRED.—In the case of a State plan approved
9 under title XIX of the Social Security Act which the
10 Secretary of Health and Human Services determines
11 requires State legislation (other than legislation ap-
12 propriating funds) in order for the plan to meet the
13 additional requirement imposed by this section, the
14 State plan shall not be regarded as failing to comply
15 with the requirements of such title solely on the
16 basis of the failure of the plan to meet such addi-
17 tional requirement before the first day of the first
18 calendar quarter beginning after the close of the
19 first regular session of the State legislature that
20 ends after the 1-year period beginning with the date
21 of the enactment of this section. For purposes of the
22 preceding sentence, in the case of a State that has
23 a 2-year legislative session, each year of the session
24 is deemed to be a separate regular session of the
25 State legislature.

1 **SEC. 304. MEDICARE COVERAGE OF FERTILITY TREAT-**
2 **MENT.**

3 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-
4 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

5 (1) in subparagraph (JJ), by inserting “and”
6 after the semicolon at the end; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(KK) fertility treatment (as defined in section
10 2799A–11(b) of the Public Health Service Act);”.

11 (b) **PAYMENT AND WAIVER OF COINSURANCE.**—Sec-
12 tion 1833(a)(1) of the Social Security Act (42 U.S.C.
13 1395l(a)(1)) is amended—

14 (1) by striking “and” before “(HH)”;

15 (2) by inserting before the semicolon at the end
16 the following: “, and (II) with respect to fertility
17 treatment (as described in section 1861(s)(2)(KK)),
18 the amount paid shall be equal to 100 percent of the
19 lesser of the actual charge for the treatment or the
20 amount determined under the payment basis deter-
21 mined under section 1848”.

22 (c) **WAIVER OF APPLICATION OF DEDUCTIBLE.**—The
23 first sentence of section 1833(b) of the Social Security Act
24 (42 U.S.C. 1395l(b)) is amended—

25 (1) by striking “, and (13)” and inserting
26 “(13)”;

1 (2) by striking “1861(n)..” and inserting
2 “1861(n), and (14) such deductible shall not apply
3 with respect to fertility treatment (as described in
4 section 1861(s)(2)(KK)).”.

5 (d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
6 Section 1848(j)(3) of the Social Security Act (42 U.S.C.
7 1395w-4(j)(3)) is amended by inserting “(2)(KK),” after
8 “risk assessment),”.

9 (e) CONFORMING AMENDMENT REGARDING COV-
10 ERAGE.—Section 1862(a)(1)(A) of the Social Security Act
11 (42 U.S.C. 1395y(a)(1)(A)) is amended—

12 (1) by striking “or additional” and inserting “,
13 additional”; and

14 (2) by inserting “, or fertility treatment (as de-
15 scribed in section 1861(s)(2)(KK))” after
16 “1861(ddd)(1))”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to services furnished on or after
19 January 1, 2025.

20 **TITLE IV—FAMILY BUILDING**
21 **FEHB FAIRNESS**

22 **SEC. 401. SHORT TITLE.**

23 This title may be cited as the “Family Building
24 FEHB Fairness Act”.

1 **SEC. 402. FERTILITY TREATMENT BENEFITS.**

2 (a) IN GENERAL.—Section 8904 of title 5, United
3 States Code, is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1), by adding at the end
6 the following:

7 “(G) Fertility treatment benefits.”; and

8 (B) in paragraph (2)—

9 (i) by redesignating subparagraph (F)
10 as subparagraph (G); and

11 (ii) by inserting after subparagraph
12 (E) the following:

13 “(F) Fertility treatment benefits.”; and

14 (2) by adding at the end the following:

15 “(c) In this section, the term ‘fertility treatment’ in-
16 cludes the following:

17 “(1) Preservation of human oocytes, sperm, or
18 embryos for later reproductive use.

19 “(2) Artificial insemination, including
20 intravaginal insemination, intracervical insemination,
21 and intrauterine insemination.

22 “(3) Assisted reproductive technology, including
23 in vitro fertilization and other treatments or proce-
24 dures in which reproductive genetic material, such as
25 oocytes, sperm, fertilized eggs, and embryos, are
26 handled, when clinically appropriate.

1 “(4) Genetic testing of embryos.

2 “(5) Medications prescribed or obtained over-
3 the-counter, as indicated for fertility.

4 “(6) Gamete donation.

5 “(7) Such other information, referrals, treat-
6 ments, procedures, medications, laboratory services,
7 technologies, and services relating to fertility as the
8 Director of the Office of Personnel Management, in
9 coordination with the Secretary of Health and
10 Human Services, determines appropriate.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date that is 1 year
13 after the date of enactment of this Act.

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