



(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide coverage for infertility treatment and standard fertility preservation services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BROWNLEY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide coverage for infertility treatment and standard fertility preservation services, and for other purposes.

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.**

4 This Act may be cited as the “Veterans Infertility
5 Treatment Act of 2023”.

1 **SEC. 2. INFERTILITY TREATMENTS FOR VETERANS.**

2 (a) AUTHORITY.—Chapter 17 of title 38, United
3 States Code, is amended by inserting after section 1720J
4 the following new section (and conforming the table of sec-
5 tions at the beginning of such chapter accordingly):

6 **“§ 1720K. Infertility treatment and standard fertility**
7 **preservation services**

8 “(a) TREATMENT AND SERVICES.—(1) In furnishing
9 medical services under this chapter, at the election of a
10 covered individual and subject to paragraph (4), the Sec-
11 retary shall furnish to the covered individual infertility
12 treatments (including through the use of assisted repro-
13 ductive technology), standard fertility preservation serv-
14 ices, or both.

15 “(2) In the case of in vitro fertilization treatment fur-
16 nished under paragraph (1), the Secretary may furnish
17 to a covered individual under such paragraph not more
18 than three completed in vitro fertilization cycles that re-
19 sult in live birth or 10 attempted in vitro fertilization cy-
20 cles, whichever occurs first.

21 “(3) The Secretary may furnish in vitro fertilization
22 treatment under paragraph (1) using donated gametes or
23 embryos.

24 “(4) The Secretary may not furnish to a covered indi-
25 vidual an in vitro fertilization cycle or other treatment or
26 service under paragraph (1) unless the Secretary receives

1 consent for such cycle, treatment, or service from each of
2 the following:

3 “(A) The covered individual.

4 “(B) If the covered individual is a partner of a
5 covered veteran, the covered veteran.

6 “(C) If applicable, the third-party donor.

7 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to require the Secretary to furnish
9 maternity care to a covered individual, in addition to what
10 is otherwise required by section 1786 of this title or other
11 provisions of law.

12 “(c) RELATIONSHIP TO STATE LAW.—The legal sta-
13 tus, custody, future use, donation, disposition, or destruc-
14 tion, of gametes or embryos relating to treatment or serv-
15 ices furnished under this section shall be determined in
16 accordance with the law of the State in which the gametes
17 or embryos are located.

18 “(d) PAYMENTS FOR BENEFICIARY TRAVEL FOR
19 PARTNERS.—For purposes of paying travel expenses
20 under section 111 of this title for treatment or services
21 furnished under this section to a partner of a covered vet-
22 eran, the Secretary shall deem the partner to be a veteran
23 receiving treatment or care under this chapter.

24 “(e) DEFINITIONS.—In this section:

1 “(1) The term ‘assisted reproductive tech-
2 nology’ includes in vitro fertilization and other infer-
3 tility treatments.

4 “(2) The term ‘covered individual’ means a cov-
5 ered veteran or a partner of a covered veteran.

6 “(3) The term ‘covered veteran’ means a vet-
7 eran who is enrolled in the system of annual patient
8 enrollment established under section 1705(a) of this
9 title and—

10 “(A) has infertility; or

11 “(B) is at risk of having infertility, as de-
12 termined by a licensed physician based on—

13 “(i) the medical, sexual, and repro-
14 ductive history, age, physical findings, or
15 diagnostic testing, or a combination there-
16 of, of the veteran; or

17 “(ii) any planned medication therapy,
18 surgery, radiation, chemotherapy, or other
19 medical treatment.

20 “(4) The term ‘infertility’ means a disease, con-
21 dition, or status characterized by—

22 “(A) the inability of a person to reproduce
23 either as an individual or with the partner of
24 the individual; or

1 “(B) the failure to conceive a pregnancy or
2 to carry a pregnancy to live birth after one year
3 of regular, unprotected sexual intercourse.

4 “(5) The term ‘partner’, with respect to a vet-
5 eran, means an individual selected by the veteran
6 who agrees to share with the veteran the parental
7 responsibilities with respect to any child born as a
8 result of the use of any infertility treatment under
9 this section.

10 “(6) The term ‘standard fertility preservation
11 service’ includes the procurement, cryopreservation,
12 and storage of gametes and embryos.”.

13 (b) APPLICABILITY; REGULATIONS.—

14 (1) APPLICABILITY.—Except as provided by
15 paragraph (3)(A), section 1720K of title 38, United
16 States Code, as added by subsection (a), shall apply
17 with respect to infertility treatment and standard
18 fertility preservation services furnished by the Sec-
19 retary of Veterans Affairs beginning on the date on
20 which the Secretary prescribes regulations under
21 paragraph (2).

22 (2) REGULATIONS.—Not later than one year
23 after the date of the enactment of this Act, the Sec-
24 retary shall prescribe regulations to carry out section

1 1720K of title 38, United States Code, as added by
2 subsection (a).

3 (3) INTERIM POLICIES.—

4 (A) CONTINUITY OF SERVICES.—Except as
5 provided by subparagraph (B), an individual
6 who on the day before the date on which the
7 Secretary prescribes regulations under para-
8 graph (2) is receiving counseling and treatment
9 furnished by the Secretary pursuant to existing
10 infertility authority may elect to—

11 (i) continue receiving such counseling
12 and services pursuant to the existing infer-
13 tility authority, subject to the limitations
14 of that authority; or

15 (ii) begin receiving such counseling
16 and services pursuant to section 1720K of
17 title 38, United States Code, as added by
18 subsection (a), subject to the limitations of
19 that section that shall be applied in a man-
20 ner that recognizes such counseling and
21 services previously furnished under the ex-
22 isting infertility authority.

23 (B) EXPANSION OF SERVICES.—During
24 the period beginning 180 days after the date of
25 the enactment of this Act and ending on the

1 date on which the Secretary prescribes regula-
2 tions under paragraph (2), the Secretary shall
3 ensure that counseling and treatment furnished
4 pursuant to existing infertility authority include
5 the following elements:

6 (i) The Secretary may furnish such
7 counseling and treatment to the partner of
8 a veteran covered by such provision with-
9 out regard to whether the partner and vet-
10 eran are married.

11 (ii) The Secretary may furnish such
12 counseling and treatment using donated
13 gametes or embryos.

14 (4) DEFINITIONS.—In this subsection:

15 (A) The term “existing infertility author-
16 ity” means section 234(a)(1) of the Military
17 Construction, Veterans Affairs, and Related
18 Agencies Appropriations Act, 2022 (division J
19 of Public Law 117–103; 136 Stat. 556), or
20 other provisions of law administered by the Sec-
21 retary of Veterans Affairs enacted before the
22 date of the enactment of this Act that provide
23 authority to the Secretary to furnish fertility
24 counseling and treatment.

1 (B) The term “partner” has the meaning
2 given that term in section 1720K of title 38,
3 United States Code, as added by subsection (a).