

118TH CONGRESS  
1ST SESSION

# H. R. 544

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2023

Ms. BROWNLEY introduced the following bill; which was referred to the  
Committee on Veterans' Affairs

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## 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”.

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

7 (a) **AUTHORITY.**—Chapter 17 of title 38, United  
8 States Code, is amended by inserting after section 1720J

1 the following new section (and conforming the table of sec-  
2 tions at the beginning of such chapter accordingly):

3 **“§ 1720K. Infertility treatment and standard fertility**  
4 **preservation services**

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

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

18 “(3) The Secretary may furnish in vitro fertilization  
19 treatment under paragraph (1) using donated gametes or  
20 embryos.

21 “(4) The Secretary may not furnish to a covered indi-  
22 vidual an in vitro fertilization cycle or other treatment or  
23 service under paragraph (1) unless the Secretary receives  
24 consent for such cycle, treatment, or service from each of  
25 the following:

1           “(A) The covered individual.

2           “(B) If the covered individual is a partner of a  
3 covered veteran, the covered veteran.

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

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

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

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

22          “(e) DEFINITIONS.—In this section:

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

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

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

7                   “(A) has infertility; or

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

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

14                   “(ii) any planned medication therapy,  
15                   surgery, radiation, chemotherapy, or other  
16                   medical treatment.

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

19                   “(A) the inability of a person to reproduce  
20                   either as an individual or with the partner of  
21                   the individual; or

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

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

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

10           (b) APPLICABILITY; REGULATIONS.—

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

19           (2) REGULATIONS.—Not later than one year  
20           after the date of the enactment of this Act, the Sec-  
21           retary shall prescribe regulations to carry out section  
22           1720K of title 38, United States Code, as added by  
23           subsection (a).

24           (3) INTERIM POLICIES.—

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

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

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

20 (B) EXPANSION OF SERVICES.—During  
21 the period beginning 180 days after the date of  
22 the enactment of this Act and ending on the  
23 date on which the Secretary prescribes regula-  
24 tions under paragraph (2), the Secretary shall  
25 ensure that counseling and treatment furnished

1           pursuant to existing infertility authority include  
2           the following elements:

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

8                   (ii) The Secretary may furnish such  
9                   counseling and treatment using donated  
10                  gametes or embryos.

11          (4) DEFINITIONS.—In this subsection:

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

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

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