

113TH CONGRESS
1ST SESSION

H. R. 958

To amend title 38, United States Code, to improve the reproductive assistance provided by the Department of Veterans Affairs to severely wounded, ill, or injured veterans and their spouses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2013

Mr. LARSEN of Washington (for himself, Ms. BONAMICI, Mr. BRADY of Pennsylvania, Ms. BROWNLEY of California, Ms. CHU, Mr. CONYERS, Mrs. DAVIS of California, Ms. DELBENE, Ms. HANABUSA, Mr. HECK of Washington, Ms. MCCOLLUM, Mrs. NAPOLITANO, Ms. NORTON, Ms. SLAUGHTER, Mr. STIVERS, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committees on the Budget and Armed Services, 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 amend title 38, United States Code, to improve the reproductive assistance provided by the Department of Veterans Affairs to severely wounded, ill, or injured veterans and their spouses, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Women Veterans and
3 Other Health Care Improvements Act of 2013”.

4 **SEC. 2. CLARIFICATION THAT FERTILITY COUNSELING AND**
5 **TREATMENT ARE MEDICAL SERVICES WHICH**
6 **THE SECRETARY MAY FURNISH TO VET-**
7 **ERANS LIKE OTHER MEDICAL SERVICES.**

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

11 “(H) Fertility counseling and treatment, includ-
12 ing treatment using assisted reproductive technology
13 such as in vitro fertilization and other fertility treat-
14 ments in which both eggs and sperm are handled
15 when clinically appropriate.”.

16 **SEC. 3. REPRODUCTIVE TREATMENT AND CARE FOR**
17 **SPOUSES AND SURROGATES OF VETERANS.**

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

21 **“§ 1788. Reproductive treatment and care for spouses**
22 **and surrogates of veterans**

23 “(a) IN GENERAL.—The Secretary shall furnish fer-
24 tility counseling and treatment, including through the use
25 of assisted reproductive technology, to a spouse or surro-
26 gate of a severely wounded, ill, or injured veteran who has

1 an infertility condition incurred or aggravated in line of
2 duty in the active military, naval, or air service and who
3 is enrolled in the system of annual patient enrollment es-
4 tablished under section 1705(a) of this title if the spouse
5 or surrogate and the veteran apply jointly for such coun-
6 seling and treatment through a process prescribed by the
7 Secretary.

8 “(b) COORDINATION OF CARE FOR OTHER SPOUSES
9 AND SURROGATES.—In the case of a spouse or surrogate
10 of a veteran not described in subsection (a) who is seeking
11 fertility counseling and treatment, the Secretary may co-
12 ordinate fertility counseling and treatment for such spouse
13 or surrogate.

14 “(c) CONSTRUCTION.—Nothing in this section shall
15 be construed to require the Secretary—

16 “(1) to find or certify a surrogate for a veteran
17 or to connect a surrogate with a veteran; or

18 “(2) to furnish maternity care to a spouse or
19 surrogate of a veteran.

20 “(d) ASSISTED REPRODUCTIVE TECHNOLOGY DE-
21 FINED.—In this section, the term ‘assisted reproductive
22 technology’ includes in vitro fertilization and other fertility
23 treatments in which both eggs and sperm are handled
24 when clinically appropriate.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 17 of such title is amended
 3 by inserting after the item relating to section 1787 the
 4 following new item:

“1788. Reproductive treatment and care for spouses and surrogates of veterans.”.

5 **SEC. 4. ADOPTION ASSISTANCE FOR SEVERELY WOUNDED**
 6 **VETERANS.**

7 (a) IN GENERAL.—Subchapter VIII of chapter 17 of
 8 title 38, United States Code, as amended by section 3,
 9 is further amended by adding at the end the following new
 10 section:

11 **“§ 1789. Adoption assistance**

12 “(a) IN GENERAL.—The Secretary may pay an
 13 amount, not to exceed the limitation amount, to assist a
 14 covered veteran in the adoption of one or more children.

15 “(b) COVERED VETERAN.—For purposes of this sec-
 16 tion, a covered veteran is any severely wounded, ill, or in-
 17 jured veteran who—

18 “(1) has an infertility condition incurred or ag-
 19 gravated in line of duty in the active military, naval,
 20 or air service; and

21 “(2) is enrolled in the system of annual patient
 22 enrollment established under section 1705(a) of this
 23 title.

1 “(c) LIMITATION AMOUNT.—For purposes of this
 2 section, the limitation amount is the amount equal to the
 3 lesser of—

4 “(1) the cost the Department would incur if the
 5 Secretary were to provide a covered veteran with one
 6 cycle of in vitro fertilization, as determined by the
 7 Secretary; and

8 “(2) the cost the Department would incur by
 9 paying the expenses of three adoptions by covered
 10 veterans, as determined by the Secretary.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
 12 at the beginning of chapter 17 of such title, as amended
 13 by section 3, is further amended by inserting after the
 14 item relating to section 1788 the following new item:

“1789. Adoption assistance.”.

15 **SEC. 5. ANNUAL REPORT ON PROVISION OF FERTILITY**
 16 **COUNSELING AND TREATMENT FURNISHED**
 17 **BY DEPARTMENT OF VETERANS AFFAIRS.**

18 (a) IN GENERAL.—Not later than one year after the
 19 date of the enactment of this Act and not less frequently
 20 than once each year thereafter, the Secretary of Veterans
 21 Affairs shall submit to the Committee on Veterans’ Affairs
 22 of the Senate and the Committee on Veterans’ Affairs of
 23 the House of Representatives a report on the fertility
 24 counseling and treatment furnished by the Department of

1 Veterans Affairs during the year preceding the submittal
2 of the report.

3 (b) ELEMENTS.—Each report submitted under sub-
4 section (a) shall include, for the period covered by the re-
5 port, the following:

6 (1) The number of veterans who received fer-
7 tility counseling or treatment furnished by the De-
8 partment of Veterans Affairs, disaggregated by era
9 of military service of such veterans.

10 (2) The number of spouses and surrogates of
11 veterans who received fertility counseling or treat-
12 ment furnished by the Department.

13 (3) The cost to the Department of furnishing
14 fertility counseling and treatment, disaggregated by
15 cost of services and administration.

16 (4) The average cost to the Department per re-
17 cipient of such counseling and treatment.

18 (5) In cases in which the Department furnished
19 fertility treatment through the use of assisted repro-
20 ductive technology, the average number of cycles per
21 person furnished.

22 (6) A description of how fertility counseling and
23 treatment services of the Department are coordi-
24 nated with similar services of the Department of De-
25 fense.

1 **SEC. 6. REGULATIONS ON FURNISHING OF FERTILITY**
2 **COUNSELING AND TREATMENT AND ADOPT-**
3 **ION ASSISTANCE BY DEPARTMENT OF VET-**
4 **ERANS AFFAIRS.**

5 (a) IN GENERAL.—Not later than 540 days after the
6 date of the enactment of this Act, the Secretary of Vet-
7 erans Affairs shall prescribe regulations—

8 (1) on the furnishing of fertility treatment to
9 veterans using assisted reproductive technology;

10 (2) to carry out section 1788 of title 38, United
11 States Code, as added by section 3; and

12 (3) to carry out section 1789 of such title, as
13 added by section 4.

14 (b) LIMITATION.—Notwithstanding any other provi-
15 sion of law, during the period beginning on the date of
16 the enactment of this Act and ending on the date on which
17 the Secretary prescribes regulations under subsection (a),
18 the Secretary may not furnish—

19 (1) to a veteran any fertility treatment that
20 uses an assisted reproductive technology that the
21 Secretary has not used in the provision of a fertility
22 treatment to a veteran before the date of the enact-
23 ment of this Act;

24 (2) any fertility counseling or treatment under
25 section 1788 of title 38, United States Code, as
26 added by section 3; or

1 (3) any assistance under section 1789 of such
2 title, as added by section 4.

3 (c) ASSISTED REPRODUCTIVE TECHNOLOGY DE-
4 FINED.—In this section, the term “assisted reproductive
5 technology” has the meaning given the term in section
6 1788 of such title, as added by section 3.

7 **SEC. 7. COORDINATION BETWEEN DEPARTMENT OF VET-**
8 **ERANS AFFAIRS AND DEPARTMENT OF DE-**
9 **FENSE ON FURNISHING OF FERTILITY COUN-**
10 **SELING AND TREATMENT.**

11 The Secretary of Veterans Affairs and the Secretary
12 of Defense shall share best practices and facilitate refer-
13 rals, as they consider appropriate, on the furnishing of fer-
14 tility counseling and treatment.

15 **SEC. 8. FACILITATION OF REPRODUCTION AND INFER-**
16 **TILITY RESEARCH.**

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

20 **“§ 7330B. Facilitation of reproduction and infertility**
21 **research**

22 “(a) FACILITATION OF RESEARCH REQUIRED.—The
23 Secretary shall facilitate research conducted collabo-
24 ratively by the Secretary of Defense and the Secretary of
25 Health and Human Services to improve the ability of the

1 Department of Veterans Affairs to meet the long-term re-
2 productive health care needs of veterans who have a geni-
3 tourinary service-connected disability or a condition that
4 was incurred or aggravated in line of duty in the active
5 military, naval, or air service, such as spinal cord injury,
6 that affects the veterans' ability to reproduce.

7 “(b) DISSEMINATION OF INFORMATION.—The Sec-
8 retary shall ensure that information produced by the re-
9 search facilitated under this section that may be useful
10 for other activities of the Veterans Health Administration
11 is disseminated throughout the Veterans Health Adminis-
12 tration.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 73 of such title is amended
15 by inserting after the item relating to section 7330A the
16 following new item:

“7330B. Facilitation of reproduction and infertility research.”.

17 (c) REPORT.—Not later than three years after the
18 date of the enactment of this Act, the Secretary of Vet-
19 erans Affairs shall submit to Congress a report on the re-
20 search activities conducted by the Secretary under section
21 7330B of title 38, United States Code, as added by sub-
22 section (a).

1 **SEC. 9. REQUIREMENT TO IMPROVE DEPARTMENT OF VET-**
2 **ERANS AFFAIRS WOMEN VETERANS CONTACT**
3 **CENTER.**

4 The Secretary of Veterans Affairs shall enhance the
5 capabilities of the Department of Veterans Affairs women
6 veterans contact center—

7 (1) to respond to requests by women veterans
8 for assistance with accessing health care and bene-
9 fits furnished under laws administered by the Sec-
10 retary; and

11 (2) for referral of such veterans to community
12 resources to obtain assistance with services not fur-
13 nished by the Department.

14 **SEC. 10. MODIFICATION OF PILOT PROGRAM ON COUN-**
15 **SELING IN RETREAT SETTINGS FOR WOMEN**
16 **VETERANS NEWLY SEPARATED FROM SERV-**
17 **ICE IN THE ARMED FORCES.**

18 (a) INCREASE IN NUMBER OF LOCATIONS.—Sub-
19 section (c) of section 203 of the Caregivers and Veterans
20 Omnibus Health Services Act of 2010 (Public Law 111–
21 163; 38 U.S.C. 1712A note) is amended by striking “three
22 locations” and inserting “14 locations”.

23 (b) EXTENSION OF DURATION.—Subsection (d) of
24 such section is amended by striking “2-year” and insert-
25 ing “four-year”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Sub-
2 section (f) of such section is amended—

3 (1) by striking “Secretary of Veterans Affairs
4 for each” and inserting the following: “Secretary of
5 Veterans Affairs—

6 “(1) for each”;

7 (2) in paragraph (1), as designated by para-
8 graph (1), by striking the period at the end and in-
9 serting “; and”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(2) for each of fiscal years 2013 and 2014,
13 \$400,000 to carry out the pilot program.”.

14 **SEC. 11. PROGRAM ON ASSISTANCE FOR CHILD CARE FOR**
15 **CERTAIN VETERANS.**

16 (a) ASSISTANCE FOR CHILD CARE FOR CERTAIN
17 VETERANS RECEIVING HEALTH CARE.—

18 (1) IN GENERAL.—Subchapter I of chapter 17
19 of title 38, United States Code, is amended by add-
20 ing at the end the following new section:

21 **“§ 1709B. Assistance for child care for certain vet-**
22 **erans receiving health care**

23 “(a) PROGRAM REQUIRED.—The Secretary shall
24 carry out a program to provide, subject to subsection (b),
25 assistance to qualified veterans described in subsection (c)

1 to obtain child care so that such veterans can receive
2 health care services described in subsection (c).

3 “(b) LIMITATION ON PERIOD OF PAYMENTS.—As-
4 sistance may only be provided to a qualified veteran under
5 this section for receipt of child care during the period that
6 the qualified veteran—

7 “(1) receives the types of health care services
8 described in subsection (c) at a facility of the De-
9 partment; and

10 “(2) requires travel to and return from such fa-
11 cility for the receipt of such health care services.

12 “(c) QUALIFIED VETERANS.—For purposes of this
13 section, a qualified veteran is a veteran who is—

14 “(1) the primary caretaker of a child or chil-
15 dren; and

16 “(2)(A) receiving from the Department—

17 “(i) regular mental health care services;

18 “(ii) intensive mental health care services;

19 or

20 “(iii) such other intensive health care serv-
21 ices that the Secretary determines that provi-
22 sion of assistance to the veteran to obtain child
23 care would improve access to such health care
24 services by the veteran; or

1 “(B) in need of regular or intensive mental
2 health care services from the Department, and but
3 for lack of child care services, would receive such
4 health care services from the Department.

5 “(d) LOCATIONS.—The Secretary shall carry out the
6 program in no fewer than three Veterans Integrated Serv-
7 ice Networks selected by the Secretary for purposes of the
8 program.

9 “(e) FORMS OF CHILD CARE ASSISTANCE.—(1)
10 Child care assistance under this section may include the
11 following:

12 “(A) Stipends for the payment of child care of-
13 fered by licensed child care centers (either directly
14 or through a voucher program) which shall be, to
15 the extent practicable, modeled after the Depart-
16 ment of Veterans Affairs Child Care Subsidy Pro-
17 gram established pursuant to section 630 of the
18 Treasury and General Government Appropriations
19 Act, 2002 (Public Law 107–67; 115 Stat. 552).

20 “(B) Direct provision of child care at an on-site
21 facility of the Department of Veterans Affairs.

22 “(C) Payments to private child care agencies.

23 “(D) Collaboration with facilities or programs
24 of other Federal departments or agencies.

1 “(E) Such other forms of assistance as the Sec-
2 retary considers appropriate.

3 “(2) In the case that child care assistance under this
4 section is provided as a stipend under paragraph (1)(A),
5 such stipend shall cover the full cost of such child care.”.

6 (2) CONFORMING AMENDMENT.—Section
7 205(e) of the Caregivers and Veterans Omnibus
8 Health Services Act of 2010 (Public Law 111–163;
9 38 U.S.C. 1710 note) is amended by inserting “but
10 not after the date of the enactment of the Women
11 Veterans and Other Health Care Improvements Act
12 of 2013” before the period at the end.

13 (3) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of such chapter is amended
15 by inserting after the item relating to section 1709A
16 the following new item:

“1709B. Assistance for child care for certain veterans receiving health care.”.

17 (b) ASSISTANCE FOR CHILD CARE FOR CERTAIN
18 VETERANS RECEIVING READJUSTMENT COUNSELING
19 AND RELATED MENTAL HEALTH SERVICES.—

20 (1) IN GENERAL.—Subchapter I of chapter 17
21 of such title, as amended by subsection (a)(1), is
22 further amended by adding at the end the following
23 new section:

1 **“§ 1709C. Assistance for child care for certain vet-**
2 **erans receiving readjustment counseling**
3 **and related mental health services**

4 “(a) PROGRAM REQUIRED.—The Secretary shall
5 carry out a program to provide, subject to subsection (b),
6 assistance to qualified veterans described in subsection (c)
7 to obtain child care so that such veterans can receive read-
8 justment counseling and related mental health services.

9 “(b) LIMITATION ON PERIOD OF PAYMENTS.—As-
10 sistance may only be provided to a qualified veteran under
11 this section for receipt of child care during the period that
12 the qualified veteran receives readjustment counseling and
13 related health care services at a Vet Center.

14 “(c) QUALIFIED VETERANS.—For purposes of this
15 section, a qualified veteran is a veteran who is—

16 “(1) the primary caretaker of a child; and

17 “(2)(A) receiving from the Department regular
18 readjustment counseling and related mental health
19 services; or

20 “(B) in need of readjustment counseling and
21 related mental health services from the Department,
22 and but for lack of child care services, would receive
23 such counseling and services from the Department.

24 “(d) LOCATIONS.—The Secretary shall carry out the
25 program under this section in no fewer than three Read-

1 justment Counseling Service Regions selected by the Sec-
2 retary for purposes of the program.

3 “(e) FORMS OF CHILD CARE ASSISTANCE.—(1)
4 Child care assistance under this section may include the
5 following:

6 “(A) Stipends for the payment of child care of-
7 fered by licensed child care centers (either directly
8 or through a voucher program) which shall be, to
9 the extent practicable, modeled after the Depart-
10 ment of Veterans Affairs Child Care Subsidy Pro-
11 gram established pursuant to section 630 of the
12 Treasury and General Government Appropriations
13 Act, 2002 (Public Law 107–67; 115 Stat. 552).

14 “(B) Payments to private child care agencies.

15 “(C) Collaboration with facilities or programs
16 of other Federal departments or agencies.

17 “(D) Such other forms of assistance as the Sec-
18 retary considers appropriate.

19 “(2) In the case that child care assistance under this
20 subsection is provided as a stipend under paragraph
21 (1)(A), such stipend shall cover the full cost of such child
22 care.

23 “(f) VET CENTER DEFINED.—In this section, the
24 term ‘Vet Center’ means a center for readjustment coun-

1 seling and related mental health services for veterans
2 under section 1712A of this title.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of such chapter, as amended
5 by subsection (a)(3), is further amended by inserting
6 after the item relating to section 1709B the fol-
7 lowing new item:

“1709C. Assistance for child care for certain veterans receiving readjustment
counseling and related mental health services.”.

8 **SEC. 12. CONTRACTOR USER FEES.**

9 (a) IN GENERAL.—Chapter 3 of title 38, United
10 States Code, is amended by adding at the end the fol-
11 lowing new section:

12 **“§ 323. Contractor user fees**

13 “(a) FEE REQUIREMENT.—Except as provided in
14 subsection (c) and subject to subsection (d), the Secretary
15 shall impose a fee upon each person with whom the Sec-
16 retary engages in a contract for a good or service as a
17 condition of the contract.

18 “(b) FEE AMOUNT.—(1) The amount of a fee im-
19 posed upon a person under subsection (a) with respect to
20 a contract shall be equal to the lesser of—

21 “(A) the amount which is equal to seven per-
22 cent of the total value of the contract; and

1 “(B) the amount which is equal to the total
2 value of the contract multiplied by the applicable
3 percentage for such fiscal year.

4 “(2) The applicable percentage for a fiscal year shall
5 be equal to the percentage by which—

6 “(A) the annual estimate of the total value of
7 contracts for such fiscal year, exceeds

8 “(B) the annual estimate of the total cost of
9 fertility counseling and treatment for such fiscal
10 year.

11 “(3) Before each fiscal year, the Secretary shall es-
12 tablish, for purposes of this section, the annual estimate
13 of the total value of contracts for the next fiscal year,
14 which shall be the Secretary’s estimate of what the aggre-
15 gate value will be of all contracts in which the Secretary
16 will engage in the next fiscal year.

17 “(4) Before each fiscal year, the Secretary shall es-
18 tablish, for purposes of this section, the annual estimate
19 of the total cost of fertility counseling and treatment for
20 the next fiscal year, which shall be the Secretary’s esti-
21 mate of what the total cost to the Department will be in
22 the next fiscal year of—

23 “(A) furnishing fertility counseling and treat-
24 ment, including through the use of assisted repro-

1 ductive technology, to individuals under laws admin-
2 istered by the Secretary in the next fiscal year; and

3 “(B) making payments under section 1789 of
4 this title in the next fiscal year.

5 “(c) WAIVER.—The Secretary may waive the fee re-
6 quired by subsection (a) for a person as the Secretary con-
7 siders appropriate if the person is an individual or a small
8 business concern.

9 “(d) LIMITATION ON COLLECTION.—No fee may be
10 collected under subsection (a) except to the extent that
11 the expenditure of the fee to pay the costs of activities
12 and services for which the fee is imposed is provided for
13 in advance in an appropriations Act.

14 “(e) DEPARTMENT OF VETERANS AFFAIRS FER-
15 TILITY COUNSELING AND TREATMENT FUND.—(1) There
16 is in the Treasury a fund to be known as the Department
17 of Veterans Affairs Fertility Counseling and Treatment
18 Fund.

19 “(2) All amounts received by the Secretary under
20 subsection (a) shall be deposited in the fund.

21 “(3)(A) Subject to the provisions of appropriations
22 Acts, amounts in the fund shall be available, without fiscal
23 year limitation, to the Secretary for the following pur-
24 poses:

1 “(i) To furnish fertility counseling and treat-
2 ment, including through the use of assisted repro-
3 ductive technology, to individuals under laws admin-
4 istered by the Secretary.

5 “(ii) To make payments under section 1789 of
6 this title.

7 “(B) Amounts available under subparagraph (A) may
8 not be used for any purposes other than a purpose set
9 forth in clause (i) or (ii) of that subparagraph.

10 “(4) Amounts received by the Secretary under sub-
11 section (a) shall be treated for the purposes of sections
12 251 and 252 of the Balanced Budget and Emergency Def-
13 icit Control Act of 1985 (2 U.S.C. 901, 902) as offsets
14 to discretionary appropriations (rather than as offsets to
15 direct spending) to the extent that such amounts are made
16 available for expenditure in appropriations Acts for the
17 purposes specified in paragraph (3) of this subsection.

18 “(f) SMALL BUSINESS CONCERN DEFINED.—In this
19 section, the term ‘small business concern’ has the meaning
20 given such term under section 3 of the Small Business
21 Act (15 U.S.C. 632).”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 3 of such title is amended by

- 1 adding after the item relating to section 322 the following
- 2 new item:

“323. Contractor user fees.”.

