

116TH CONGRESS
2D SESSION

H. R. 8034

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

AUGUST 14, 2020

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

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 2020”.

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

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

5 **“§ 1720J. Infertility treatment and standard fertility**
6 **preservation services**

7 “(a) TREATMENT AND SERVICES.—(1) In furnishing
8 medical services under this chapter, the Secretary shall
9 furnish infertility treatments (including through the use
10 of assisted reproductive technology), standard fertility
11 preservation services, or both, to a covered veteran or a
12 spouse, partner, or gestational surrogate of a covered vet-
13 eran, if the veteran and the spouse, partner, or gestational
14 surrogate of the veteran, as applicable, apply jointly for
15 such treatments or services, or both, through a process
16 prescribed by the Secretary.

17 “(2) In the case of in vitro fertilization treatment fur-
18 nished under paragraph (1), the Secretary may furnish
19 not more than three completed cycles that result in live
20 birth or six attempted cycles of in vitro fertilization,
21 whichever occurs first, to an individual under such para-
22 graph.

23 “(b) 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, in addition to what is otherwise
7 required by section 1786 of this title or other provi-
8 sions of law.

9 “(c) DEFINITIONS.—In this section:

10 “(1) The term ‘assisted reproductive tech-
11 nology’ includes in vitro fertilization and other fer-
12 tility treatments in which both eggs and sperm are
13 handled when clinically appropriate.

14 “(2) The term ‘covered veteran’ means a vet-
15 eran who—

16 “(A) has infertility; and

17 “(B) is enrolled in the system of annual
18 patient enrollment established under section
19 1705(a) of this title.

20 “(3) The term ‘infertility’—

21 “(A) means a disease or condition charac-
22 terized by—

23 “(i) the failure to conceive a preg-
24 nancy or to carry a pregnancy to live birth

1 after one year of regular, unprotected sex-
2 ual intercourse; or

3 “(ii) the inability of a person to repro-
4 duce either as an individual or with the
5 partner of the individual; and

6 “(B) includes instances in which a person
7 is at risk of being described in clauses (i) or (ii)
8 of subparagraph (A), as determined by a li-
9 censed 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 person; or

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

17 “(4) The term ‘partner’, with respect to a vet-
18 eran, means an individual selected by the veteran
19 who agrees to share with the veteran the parental
20 responsibilities with respect to any child born as a
21 result of the use of any infertility treatment under
22 this section.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 17 of such title is amended

1 by inserting after the item relating to section 1720I the
 2 following new item:

“1720J. Infertility treatment and standard fertility preservation services.”.

3 **SEC. 3. ADOPTION ASSISTANCE FOR SEVERELY WOUNDED**
 4 **VETERANS.**

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

8 **“§ 1789. Adoption assistance**

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

12 “(b) LIMITATION AMOUNT.—For purposes of this
 13 section, the limitation amount is the amount equal to the
 14 cost the Department would incur by paying the expenses
 15 of three adoptions by covered veterans, as determined by
 16 the Secretary.

17 “(c) COVERED VETERAN DEFINED.—In this section,
 18 the term ‘covered veteran’ has the meaning given that
 19 term in section 1720J of this title.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of chapter 17 of such title is amended
 22 by inserting after the item relating to section 1788 the
 23 following new item:

“1789. Adoption assistance.”.

1 **SEC. 4. ANNUAL REPORT ON INFERTILITY TREATMENT**
2 **FURNISHED BY DEPARTMENT OF VETERANS**
3 **AFFAIRS.**

4 (a) REPORT.—The Secretary of Veterans Affairs
5 shall submit to the Committee on Veterans' Affairs of the
6 Senate and the Committee on Veterans' Affairs of the
7 House of Representatives reports on the infertility treat-
8 ment furnished by the Department of Veterans Affairs
9 during the year preceding the submission of the report.
10 The Secretary shall submit such reports as follows:

11 (1) An initial report by not later than one year
12 after the date of the enactment of this Act.

13 (2) A second report by not later than November
14 11, 2022.

15 (3) Annual reports beginning in 2023.

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

19 (1) The number of veterans who received infer-
20 tility treatment furnished by the Department of Vet-
21 erans Affairs, disaggregated by era of military serv-
22 ice of such veterans.

23 (2) The number of spouses, partners, and ges-
24 tational surrogates of veterans who received infer-
25 tility treatment furnished by the Department.

1 (3) The cost to the Department of furnishing
2 infertility treatment, disaggregated by cost of serv-
3 ices and administration.

4 (4) The average cost to the Department per re-
5 cipient of infertility treatment.

6 (5) In cases in which the Department furnished
7 infertility treatment through the use of assisted re-
8 productive technology, the average number of cycles
9 per person furnished, disaggregated by type of treat-
10 ment.

11 (6) A description of how infertility treatment
12 services of the Department are coordinated with
13 similar services of the Department of Defense and
14 the Indian Health Service, respectively.

15 (c) DEFINITIONS.—In this section, the terms “as-
16 sisted reproductive technology”, “infertility treatment”,
17 and “partner” have the meanings given those terms in sec-
18 tions 1701 and 1720J of title 38, United States Code,
19 respectively, as amended by this Act.

20 **SEC. 5. REGULATIONS ON FURNISHING OF INFERTILITY**
21 **TREATMENT AND ADOPTION ASSISTANCE BY**
22 **DEPARTMENT OF VETERANS AFFAIRS.**

23 (a) REGULATIONS.—Not later than 18 months after
24 the date of the enactment of this Act, the Secretary of
25 Veterans Affairs shall prescribe regulations—

1 (1) to carry out section 1720J of title 38,
2 United States Code, as added by section 2; and

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

5 (b) INTERIM POLICIES.—During the period begin-
6 ning 180 days after the date of the enactment of this Act
7 and the date on which the regulations are prescribed
8 under subsection (a), the Secretary shall ensure that fer-
9 tility counseling and treatment furnished pursuant to sec-
10 tion 235 of the Military Construction, Veterans Affairs,
11 and Related Agencies Appropriations Act, 2020 (division
12 F of Public Law 116–94) or other provisions of law ad-
13 ministered by the Secretary include the following elements:

14 (1) The Secretary may furnish such counseling
15 and treatment to the partner of a veteran covered by
16 such provision without regard to whether the partner
17 and veteran are married.

18 (2) The Secretary may furnish such counseling
19 and treatment using donated gametes or embryos.

20 (c) PARTNER DEFINED.—In this section, the term
21 “partner” has the meaning given that term in section
22 1720J of title 38, United States Code, as added by section
23 2.

1 **SEC. 6. FACILITATION OF REPRODUCTION AND INFER-**
2 **TILITY RESEARCH.**

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 **“§ 7330D. Facilitation of reproduction and infertility**
7 **research**

8 “(a) FACILITATION OF RESEARCH REQUIRED.—The
9 Secretary shall facilitate research conducted collabo-
10 ratively by the Secretary of Defense and the Secretary of
11 Health and Human Services to improve the ability of the
12 Department of Veterans Affairs to meet the long-term re-
13 productive health care needs of veterans who have infer-
14 tility conditions that affect the veterans’ ability to repro-
15 duce.

16 “(b) DISSEMINATION OF INFORMATION.—The Sec-
17 retary shall ensure that information produced by the re-
18 search facilitated under this section that may be useful
19 for other activities of the Veterans Health Administration
20 is disseminated throughout the Veterans Health Adminis-
21 tration.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 73 of such title is amended
24 by inserting after the item relating to section 7330C the
25 following new item:

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

1 (c) REPORT.—Not later than three years after the
2 date of the enactment of this Act, the Secretary of Vet-
3 erans Affairs shall submit to Congress a report on the re-
4 search activities conducted by the Secretary under section
5 7330D of title 38, United States Code, as added by sub-
6 section (a).

