

118TH CONGRESS
1ST SESSION

S. _____

To improve the reproductive assistance provided by the Department of Defense and the Department of Veterans Affairs to certain members of the Armed Forces, veterans, and their spouses or partners, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the reproductive assistance provided by the Department of Defense and the Department of Veterans Affairs to certain members of the Armed Forces, veterans, and their spouses or partners, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Veteran Families Health Services Act of 2023”.

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

Sec. 1. Short title; table of contents.

TITLE I—REPRODUCTIVE AND FERTILITY PRESERVATION
ASSISTANCE FOR MEMBERS OF THE ARMED FORCES

Sec. 101. Definitions.

Sec. 102. Provision of fertility treatment and counseling to certain members of the Armed Forces and spouses, partners, and gestational surrogates of such members.

Sec. 103. Establishment of fertility preservation procedures after an injury or illness.

Sec. 104. Cryopreservation and storage of reproductive genetic material of members of the Armed Forces on active duty.

Sec. 105. Assistance with and continuity of care regarding reproductive and fertility preservation services.

Sec. 106. Coordination between Department of Defense and Department of Veterans Affairs on furnishing of fertility treatment and counseling.

TITLE II—REPRODUCTIVE AND ADOPTION ASSISTANCE FOR
VETERANS

Sec. 201. Inclusion of fertility treatment and counseling under the definition of medical services in title 38.

Sec. 202. Fertility treatment and counseling for certain veterans and spouses, partners, and gestational surrogates of such veterans.

Sec. 203. Adoption assistance for certain veterans.

Sec. 204. Assistance with and continuity of care regarding reproductive and fertility preservation services.

Sec. 205. Facilitation of reproduction and infertility research.

Sec. 206. Regulations on furnishing of fertility treatment and counseling and adoption assistance by Department of Veterans Affairs.

1 **TITLE I—REPRODUCTIVE AND**
2 **FERTILITY PRESERVATION**
3 **ASSISTANCE FOR MEMBERS**
4 **OF THE ARMED FORCES**

5 **SEC. 101. DEFINITIONS.**

6 In this title:

7 (1) **ACTIVE DUTY.**—The term “active duty” has
8 the meaning given that term in section 101(d)(1) of
9 title 10, United States Code.

1 (2) ARMED FORCES.—The term “Armed
2 Forces” has the meaning given the term “armed
3 forces” in section 101(a)(4) of such title.

4 **SEC. 102. PROVISION OF FERTILITY TREATMENT AND**
5 **COUNSELING TO CERTAIN MEMBERS OF THE**
6 **ARMED FORCES AND SPOUSES, PARTNERS,**
7 **AND GESTATIONAL SURROGATES OF SUCH**
8 **MEMBERS.**

9 (a) FERTILITY TREATMENT AND COUNSELING.—

10 (1) IN GENERAL.—The Secretary of Defense
11 shall furnish fertility treatment and counseling, in-
12 cluding through the use of assisted reproductive
13 technology, to a covered member of the Armed
14 Forces or a spouse, partner, or gestational surrogate
15 of such a member.

16 (2) ELIGIBILITY FOR TREATMENT AND COUN-
17 SELING.—Fertility treatment and counseling shall be
18 furnished under paragraph (1) without regard to the
19 sex, gender identity, sexual orientation, or marital
20 status of the covered member of the Armed Forces.

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

1 (A) not more than three completed oocyte
2 retrievals; and

3 (B) unlimited embryo transfers in accord-
4 ance with the guidelines of the American Soci-
5 ety for Reproductive Medicine.

6 (b) PROCUREMENT OF REPRODUCTIVE GENETIC MA-
7 TERIAL.—If a covered member of the Armed Forces is un-
8 able to provide their reproductive genetic material for pur-
9 poses of fertility treatment under subsection (a), the Sec-
10 retary shall, at the election of such member, allow such
11 member to receive such treatment with donated reproduc-
12 tive genetic material and pay or reimburse such member
13 the reasonable costs of procuring such material from a
14 donor.

15 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed to require the Secretary—

17 (1) to find or certify a gestational surrogate for
18 a covered member of the Armed Forces or to con-
19 nect a gestational surrogate with such a member; or

20 (2) to find or certify reproductive genetic mate-
21 rial from a donor for a covered member of the
22 Armed Forces or to connect such a member with re-
23 productive genetic material from a donor.

24 (d) DEFINITIONS.—In this section:

1 (1) ASSISTED REPRODUCTIVE TECHNOLOGY.—

2 The term “assisted reproductive technology” in-
3 cludes in vitro fertilization and other fertility treat-
4 ments in which both eggs and sperm are handled
5 when clinically appropriate.

6 (2) COVERED MEMBER OF THE ARMED

7 FORCES.—The term “covered member of the Armed
8 Forces” means a member of the Armed Forces who
9 has an infertility condition, unless the Secretary can
10 show that the member was completely infertile be-
11 fore service on active duty in the Armed Forces.

12 (3) FERTILITY TREATMENT.—The term “fer-
13 tility treatment” includes the following:

14 (A) Procedures that use assisted reproduc-
15 tive technology.

16 (B) Sperm retrieval.

17 (C) Egg retrieval.

18 (D) Artificial insemination.

19 (E) Transfer of reproductive genetic mate-
20 rial.

21 (F) Medications as prescribed or necessary
22 for fertility.

23 (G) Such other treatments as the Sec-
24 retary of Defense considers appropriate.

1 (4) INFERTILITY CONDITION.—The term “in-
2 fertility condition” includes—

3 (A) a diagnosis of infertility; or

4 (B) the inability to reproduce or safely
5 carry a pregnancy to term, including as a result
6 of treatment for another condition.

7 (5) PARTNER.—The term “partner”, with re-
8 spect to a member of the Armed Forces, means an
9 individual selected by the member who agrees to
10 share with the member the parental responsibilities
11 with respect to any child born as a result of the use
12 of any fertility treatment under this section.

13 **SEC. 103. ESTABLISHMENT OF FERTILITY PRESERVATION**
14 **PROCEDURES AFTER AN INJURY OR ILLNESS.**

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

24 (b) CONSENT FOR RETRIEVAL OF REPRODUCTIVE
25 GENETIC MATERIAL.—Reproductive genetic material may

1 be retrieved from a member of the Armed Forces under
2 subsection (a) only—

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

4 (2) if the member is unable to consent, if a
5 medical professional determines that—

6 (A) the future fertility of the member is
7 potentially jeopardized as a result of an injury
8 or illness described in subsection (a) or will be
9 potentially jeopardized as a result of treating
10 such injury or illness;

11 (B) the member lacks the capacity to con-
12 sent to the retrieval of reproductive genetic ma-
13 terial and is likely to regain such capacity; and

14 (C) the retrieval of reproductive genetic
15 material under this section is in the medical in-
16 terest of the member.

17 (c) CONSENT FOR USE OF RETRIEVED REPRODUC-
18 TIVE GENETIC MATERIAL.—Reproductive genetic mate-
19 rial retrieved from a member of the Armed Forces under
20 subsection (a) may be used only—

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

22 (2) if the member has lost the ability to consent
23 permanently, as determined by a medical profes-
24 sional, as specified in an advance directive or testa-
25 mentary instrument executed by the member.

1 (d) DISPOSAL OF REPRODUCTIVE GENETIC MATE-
2 RIAL.—In accordance with regulations prescribed by the
3 Secretary for purpose of this subsection, the Secretary
4 shall dispose of reproductive genetic material retrieved
5 from a member of the Armed Forces under subsection
6 (a)—

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

8 (2) if the member—

9 (A) has lost the ability to consent perma-
10 nently, as determined by a medical professional;
11 and

12 (B) has not specified the use of their re-
13 productive genetic material in an advance direc-
14 tive or testamentary instrument executed by the
15 member.

16 **SEC. 104. CRYOPRESERVATION AND STORAGE OF REPRO-**
17 **DUCTIVE GENETIC MATERIAL OF MEMBERS**
18 **OF THE ARMED FORCES ON ACTIVE DUTY.**

19 (a) IN GENERAL.—The Secretary of Defense shall
20 provide members of the Armed Forces on active duty in
21 the Armed Forces with the opportunity to cryopreserve
22 and store their reproductive genetic material prior to—

23 (1) deployment to a combat zone; or

24 (2) a duty assignment that includes a haz-
25 arduous assignment, including—

1 (A) assignments resulting in exposure to
2 perfluoroalkyl or polyfluoroalkyl substances;
3 and

4 (B) such other assignments as determined
5 by the Secretary.

6 (b) PERIOD OF TIME.—

7 (1) IN GENERAL.—The Secretary shall provide
8 for the cryopreservation and storage of reproductive
9 genetic material of any member of the Armed Forces
10 under subsection (a) in a facility of the Department
11 of Defense or of a private entity and the transpor-
12 tation of such material, at no cost to the member,
13 until the date that is one year after the retirement,
14 separation, or release of the member from the
15 Armed Forces.

16 (2) CONTINUED CRYOPRESERVATION AND
17 STORAGE.—At the end of the one-year period speci-
18 fied in paragraph (1), the Secretary shall permit an
19 individual whose reproductive genetic material was
20 cryopreserved and stored in a facility of the Depart-
21 ment as described in that paragraph to select, in-
22 cluding pursuant to an advance medical directive or
23 military testamentary instrument completed under
24 subsection (c), one of the following options:

1 (A) To continue such cryopreservation and
2 storage in such facility with the cost of such
3 cryopreservation and storage borne by the indi-
4 vidual.

5 (B) To transfer the material to a private
6 cryopreservation and storage facility selected by
7 the individual.

8 (C) To transfer the material to a facility of
9 the Department of Veterans Affairs if
10 cryopreservation and storage is available to the
11 individual at such facility.

12 (3) DISPOSAL OF REPRODUCTIVE GENETIC MA-
13 TERIAL.—If an individual described in paragraph
14 (2) does not make a selection under subparagraph
15 (A), (B), or (C) of such paragraph, the Secretary
16 may dispose of the reproductive genetic material of
17 the individual not earlier than the date that is 90
18 days after the end of the one-year period specified
19 in paragraph (1) with respect to the individual.

20 (c) ADVANCE MEDICAL DIRECTIVE AND MILITARY
21 TESTAMENTARY INSTRUMENT.—A member of the Armed
22 Forces who elects to cryopreserve and store their repro-
23 ductive genetic material under this section must complete
24 an advance medical directive, as defined in section
25 1044c(b) of title 10, United States Code, and a military

1 testamentary instrument, as defined in section 1044d(b)
2 of such title, that explicitly specifies the use of their
3 cryopreserved and stored reproductive genetic material if
4 such member dies or otherwise loses the capacity to con-
5 sent to the use of their cryopreserved and stored reproduc-
6 tive genetic material.

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

11 **SEC. 105. ASSISTANCE WITH AND CONTINUITY OF CARE RE-**
12 **GARDING REPRODUCTIVE AND FERTILITY**
13 **PRESERVATION SERVICES.**

14 The Secretary of Defense shall ensure that employees
15 of the Department of Defense assist members of the
16 Armed Forces—

17 (1) in navigating the services provided under
18 this title;

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

21 (3) in continuing the receipt of such services
22 without interruption during a permanent change of
23 station for such members.

1 **SEC. 106. COORDINATION BETWEEN DEPARTMENT OF DE-**
2 **FENSE AND DEPARTMENT OF VETERANS AF-**
3 **FAIRS ON FURNISHING OF FERTILITY TREAT-**
4 **MENT AND COUNSELING.**

5 (a) IN GENERAL.—The Secretary of Defense and the
6 Secretary of Veterans Affairs shall share best practices
7 and facilitate referrals, as they consider appropriate, on
8 the furnishing of fertility treatment and counseling to in-
9 dividuals eligible for the receipt of such counseling and
10 treatment from the Secretaries.

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

14 (1) providing that the Secretary of Defense will
15 ensure access by the Secretary of Veterans Affairs
16 to reproductive genetic material of veterans stored
17 by the Department of Defense for purposes of fur-
18 nishing fertility treatment under section 1720K of
19 title 38, United States Code, as added by section
20 202(a); and

21 (2) authorizing the Department of Veterans Af-
22 fairs to compensate the Department of Defense for
23 the cryopreservation, transportation, and storage of
24 reproductive genetic material of veterans under sec-
25 tion 104.

1 **TITLE II—REPRODUCTIVE AND**
2 **ADOPTION ASSISTANCE FOR**
3 **VETERANS**

4 **SEC. 201. INCLUSION OF FERTILITY TREATMENT AND**
5 **COUNSELING UNDER THE DEFINITION OF**
6 **MEDICAL SERVICES IN TITLE 38.**

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

10 “(J) Fertility treatment and counseling,
11 including treatment using assisted reproductive
12 technology.”.

13 **SEC. 202. FERTILITY TREATMENT AND COUNSELING FOR**
14 **CERTAIN VETERANS AND SPOUSES, PART-**
15 **NERS, AND GESTATIONAL SURROGATES OF**
16 **SUCH VETERANS.**

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

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

23 “(a) REQUIREMENT.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of law, the Secretary shall furnish fertility

1 treatment and counseling, including through the use
2 of assisted reproductive technology, to a covered vet-
3 eran and the spouse, partner, or gestational surro-
4 gate of the veteran if the veteran, and the spouse,
5 partner, or gestational surrogate of the veteran, as
6 applicable, each provide informed consent for such
7 treatment and counseling, including for each cycle of
8 treatment authorized under this section, through a
9 process prescribed by the Secretary.

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

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 in accord-
22 ance with the guidelines of the American Soci-
23 ety for Reproductive Medicine.

24 “(b) PROCUREMENT OF REPRODUCTIVE GENETIC
25 MATERIAL.—If a covered veteran is unable to provide

1 their reproductive genetic material for purposes of fertility
2 treatment under subsection (a), the Secretary shall, at the
3 election of such member, allow such veteran to receive
4 such treatment with donated reproductive genetic material
5 and pay or reimburse such veteran the reasonable costs
6 of procuring such material from a donor.

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

11 “(1) the availability of and eligibility require-
12 ments for fertility treatment and counseling under
13 this section; and

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

16 “(d) OWNERSHIP, USE, DISPOSITION, OR DESTRUC-
17 TION OF REPRODUCTIVE GENETIC MATERIAL.—

18 “(1) IN GENERAL.—Issues or disputes regard-
19 ing ownership of reproductive genetic material, fu-
20 ture use of such material, disposition of such mate-
21 rial, or destruction of such material shall be the sole
22 responsibility of the covered veteran, the spouse,
23 partner, or gestational surrogate of the veteran, and
24 the private facility storing such material.

1 “(2) ROLE OF DEPARTMENT.—The role of the
2 Department under this section is limited to fur-
3 nishing the treatment and counseling required under
4 this section when requested by a covered veteran.

5 “(3) OWNERSHIP AND CUSTODY OF REPRODUC-
6 TIVE GENETIC MATERIAL.—The Department will not
7 have ownership or custody of any reproductive ge-
8 netic material obtained pursuant to treatment under
9 this section and will not be involved in the ultimate
10 disposition of such material or disputes between or
11 among any parties with respect to such material.

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

14 “(1) to find or certify a gestational surrogate
15 for a covered veteran or to connect a gestational sur-
16 surrogate with a covered veteran; or

17 “(2) to furnish maternity care to a covered vet-
18 eran or spouse, partner, or gestational surrogate of
19 a covered veteran in addition to what is otherwise
20 required by law.

21 “(f) DEFINITIONS.—In this section:

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

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

3 “(A) has an infertility condition, unless the
4 Secretary can show that the veteran was com-
5 pletely infertile before service in the active mili-
6 tary, naval, or air service; and

7 “(B) is enrolled in the system of annual
8 patient enrollment established under section
9 1705(a) of this title.

10 “(3) The term ‘fertility treatment’ includes the
11 following:

12 “(A) Procedures that use assisted repro-
13 ductive technology.

14 “(B) Sperm retrieval.

15 “(C) Egg retrieval.

16 “(D) Artificial insemination.

17 “(E) Transfer of reproductive genetic ma-
18 terial.

19 “(F) Medications as prescribed or nec-
20 essary for fertility.

21 “(G) Such other treatments as the Sec-
22 retary considers appropriate.

23 “(4) The term ‘gestational surrogate’ means an
24 individual who carries a fetus through pregnancy

1 and gives birth to a baby for another individual or
2 couple.

3 “(5) The term ‘infertility condition’ includes—

4 “(A) a diagnosis of infertility; or

5 “(B) the inability to reproduce or safely
6 carry a pregnancy to term, including as a result
7 of treatment for another condition.

8 “(6) The term ‘partner’, with respect to a cov-
9 ered veteran, means an individual—

10 “(A) selected by the veteran who agrees to
11 share with the veteran the parental responsibil-
12 ities with respect to any child born as a result
13 of the use of any fertility treatment under this
14 section; and

15 “(B) whom the veteran certifies to the De-
16 partment is the partner of the veteran and
17 therefore, based on that certification, is eligible
18 for treatment and counseling under this sec-
19 tion.”.

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 **SEC. 203. ADOPTION ASSISTANCE FOR CERTAIN VETERANS.**

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

5 **“§ 1790. Adoption assistance**

6 “(a) IN GENERAL.—The Secretary may pay an
7 amount, not to exceed the limitation amount, to assist a
8 covered veteran in the adoption of one or more children,
9 without regard to the sex, gender identity, sexual orienta-
10 tion, or marital status of the covered veteran.

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

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

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of subchapter VIII of chapter 17 of such
21 title is amended by inserting after the item relating to sec-
22 tion 1789 the following new item:

“1790. Adoption assistance.”.

1 **SEC. 204. ASSISTANCE WITH AND CONTINUITY OF CARE RE-**
2 **GARDING REPRODUCTIVE AND FERTILITY**
3 **PRESERVATION SERVICES.**

4 The Secretary of Veterans Affairs shall ensure that
5 employees of the Department of Veterans Affairs assist
6 veterans—

7 (1) in navigating the services provided under
8 this title and the amendments made by this title;

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

11 (3) in continuing the receipt of such services
12 without interruption if such veterans move to a dif-
13 ferent geographic location.

14 **SEC. 205. FACILITATION OF REPRODUCTION AND INFER-**
15 **TILITY RESEARCH.**

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

19 **“§ 7330E. Facilitation of reproduction and infertility**
20 **research**

21 “(a) FACILITATION OF RESEARCH REQUIRED.—The
22 Secretary shall facilitate research conducted collabo-
23 ratively by the Secretary of Defense and the Secretary of
24 Health and Human Services to improve the ability of the
25 Department of Veterans Affairs to meet the long-term re-
26 productive health care needs of veterans who have a geni-

1 tourinary service-connected disability or a condition that
2 was incurred or aggravated in line of duty in the active
3 military, naval, or air service, such as a spinal cord injury,
4 military sexual trauma, or a mental health condition, that
5 affects the ability of the veteran to reproduce.

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

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

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

16 **SEC. 206. REGULATIONS ON FURNISHING OF FERTILITY**
17 **TREATMENT AND COUNSELING AND ADOPTI-**
18 **ON ASSISTANCE BY DEPARTMENT OF VET-**
19 **ERANS AFFAIRS.**

20 Not later than two years after the date of the enact-
21 ment of this Act, the Secretary of Veterans Affairs shall
22 prescribe regulations—

23 (1) to carry out section 1720K of title 38,
24 United States Code, as added by section 202(a); and

- 1 (2) to carry out section 1790 of such title, as
- 2 added by section 203(a).