119TH CONGRESS
2D SESSION

# S. _____

To protect and expand nationwide access to assisted reproductive technology, including in vitro fertilization.

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IN THE SENATE OF THE UNITED STATES

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Ms. DUCKWORTH (for herself, Mrs. MURRAY, Mr. BOOKER, Mr. SCHUMER, Ms. ALSOBROOKS, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Ms. BLUNT ROCHESTER, Ms. CANTWELL, Mr. COONS, Ms. CORTEZ MASTO, Mr. DURBIN, Mr. FETTERMAN, Mr. GALLEGO, Mrs. GILLIBRAND, Ms. HASSAN, Mr. HEINRICH, Mr. HICKENLOOPER, Ms. HIRONO, Mr. KAINE, Mr. KELLY, Mr. KIM, Mr. KING, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MERKLEY, Mr. MURPHY, Mr. OSSOFF, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHIFF, Mrs. SHAHEEN, Ms. SLOTKIN, Ms. SMITH, Mr. VAN HOLLEN, Mr. WARNER, Mr. WARNOCK, Ms. WARREN, Mr. WELCH, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on _____

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# A BILL

To protect and expand nationwide access to assisted reproductive technology, including in vitro fertilization.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Right to IVF Act of 2026''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—PROTECT IVF

Sec. 101. Short title.
Sec. 102. Purposes.
Sec. 103. Definitions.
Sec. 104. Assisted reproductive technology rights and intrauterine insemination rights.
Sec. 105. Applicability and preemption.

TITLE II—VETERAN FAMILIES HEALTH SERVICES

Sec. 200. Short title.

Subtitle A—Reproductive and Fertility Preservation Assistance for Members of the Uniformed Services

Sec. 201. Definitions.
Sec. 202. Provision of assisted reproductive technology, intrauterine insemination, and counseling to certain members of the uniformed services and spouses, partners, and gestational surrogates of such members.
Sec. 203. Establishment of fertility preservation procedures for members of the uniformed services on active duty.
Sec. 204. Assistance with and continuity of care regarding reproductive and fertility preservation services.
Sec. 205. Coordination between Department of Defense and Department of Veterans Affairs on furnishing of assisted reproductive technology, intrauterine insemination, and counseling.
Sec. 206. Regulations.

Subtitle B—Reproductive Assistance for Veterans

Sec. 211. Inclusion of assisted reproductive technology, intrauterine insemination, and counseling under the definition of medical services in title 38.
Sec. 212. Assisted reproductive technology, intrauterine insemination, and counseling for certain veterans and spouses, partners, and gestational surrogates of such veterans.
Sec. 213. Assistance with and continuity of care regarding reproductive and fertility preservation services.
Sec. 214. Coordination of reproduction and fertility research for veterans.

TITLE III—ACCESS TO ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION

Sec. 301. Short title.
Sec. 302. Standards relating to benefits for assisted reproductive technology and intrauterine insemination.

Sec. 303. Requirement for State Medicaid plans to provide medical assistance for assisted reproductive technology and intrauterine insemination.
Sec. 304. Medicare coverage of assisted reproductive technology and intrauterine insemination.

TITLE IV—FAMILY BUILDING FEHB FAIRNESS

Sec. 401. Short title.
Sec. 402. Assisted reproductive technology and intrauterine insemination benefits.

**SEC. 2. SEVERABILITY.**

If any provision of this Act, or the application of such provision to any person, entity, government, or circumstance is held to be unconstitutional, the remainder of this Act, or the application of such provision to all other persons, entities, governments, or circumstances shall not be affected thereby.

# TITLE I—PROTECT IVF

**SEC. 101. SHORT TITLE.**

This title may be cited as the ''Protect IVF Act''.

**SEC. 102. PURPOSES.**

The purposes of this title are as follows:

(1) To permit patients to seek and receive assisted reproductive technology (ART), including in vitro fertilization (IVF), and intrauterine insemination (IUI), and to permit health care providers that choose to provide ART or IUI to provide such services, by ensuring that States will not enact harmful or unwarranted limitations or requirements that single out the provision of ART or IUI for restrictions

that are not consistent with American Society for Reproductive Medicine guidelines and that do not significantly advance reproductive health or the efficacy and safety of ART or IUI, or that make ART or IUI more difficult to access.

(2) To promote the right and ability of an individual residing in any State to choose to receive ART or IUI provided by a health care provider who chooses to provide such services.

(3) To protect an individual's right to make decisions, in consultation with the individual's health care provider, about the most appropriate medical care to maximize the chance of becoming pregnant and giving birth to a healthy, living, human child with the help of ART or IUI.

**SEC. 103. DEFINITIONS.**

In this title:

(1) ASSISTED REPRODUCTIVE TECHNOLOGY; ART.—The term ''assisted reproductive technology'' or ''ART'' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or embryo cryopreservation, and egg or embryo donation. Such term includes any medication related to such a treatment or procedure.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means any entity or individual (including any physician, nurse practitioner, physician assistant, pharmacist, health care support personnel, or clinical staff) that—

(A) is engaged or seeks to engage in the delivery of ART or IUI, including through the provision of evidence-based information, counseling, referrals, or items and services that relate to, aid in, or provide ART or IUI; and

(B) if required by State law to be licensed, certified, or otherwise authorized to engage in the delivery of ART or IUI—

(i) is so licensed, certified, or otherwise authorized; or

(ii) would be so licensed, certified, or otherwise authorized but for the fact that the individual or entity has provided, is providing, or plans to provide, ART or IUI in accordance with section 104.

(3) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' has the meaning given such term in section 2791(b) of the Public Health Service Act (42 U.S.C. 300gg–91(b)).

(4) INTRAUTERINE INSEMINATION; IUI.—The term ''intrauterine insemination'' or ''IUI'' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term includes any medication associated with such a procedure.

(5) MANUFACTURER.—The term ''manufacturer'' means the manufacturer of a drug or device approved, cleared, authorized, or licensed under section 505, 510(k), 513(f)(2), or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360(k), 360c(f)(2), 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262), or otherwise legally marketed.

(6) STATE.—The term ''State'' includes each of the 50 States, the District of Columbia, each territory and possession of the United States, and any political subdivision thereof.

**SEC. 104. ASSISTED REPRODUCTIVE TECHNOLOGY RIGHTS AND INTRAUTERINE INSEMINATION RIGHTS.**

(a) GENERAL RULE.—

(1) INDIVIDUAL RIGHTS.—An individual has a statutory right under this title, without prohibition, limitation, interference, or impediment, to the extent

that such prohibition, limitation, interference, or impediment in any way or degree obstructs, delays, or affects commerce over which the Federal Government has jurisdiction, to—

(A) receive ART or IUI from a health care provider;

(B) continue or complete an ongoing ART or IUI service previously initiated by a health care provider;

(C) make decisions and arrangements regarding the donation, testing, use, storage, or disposition of reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos; and

(D) establish contractual agreements with a health care provider relating to the health care provider's services in handling, testing, storing, shipping, and disposing of the individual's reproductive genetic material.

(2) HEALTH CARE PROVIDER RIGHTS.—A health care provider has a statutory right under this title, without prohibition, limitation, interference, or impediment, to the extent that such prohibition, limitation, interference, or impediment in any way or

degree obstructs, delays, or affects commerce over which the Federal Government has jurisdiction, to—

(A) provide, or assist with the provision of, ART or IUI;

(B) continue or complete the provision of, or assistance with, ART or IUI that was lawful when commenced;

(C) provide for, or assist with, the testing, use, storage, or disposition of reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos; and

(D) establish contractual agreements with individuals or manufacturers relating to the health care provider's services in handling, testing, storing, shipping, and disposing of the individual's reproductive genetic material.

(3) HEALTH INSURANCE ISSUER RIGHTS.—A health insurance issuer has a statutory right under this title, without prohibition, limitation, interference, or impediment, to the extent that such prohibition, limitation, interference, or impediment in any way or degree obstructs, delays, or affects commerce over which the Federal Government has jurisdiction, to cover the provision of ART or IUI.

(4) MANUFACTURER RIGHTS.—A manufacturer of a drug or device that is approved, cleared, authorized, or licensed under section 505, 510(k), 513(f)(2), or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355; 360(k); 360c(f)(2); 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) or otherwise legally marketed and intended for use in the provision of ART or IUI, including the storage or transport of oocytes, gametes, fertilized eggs, and embryos, has a statutory right under this title, without prohibition, limitation, interference, or impediment, to the extent that such prohibition, limitation, interference, or impediment in any way or degree obstructs, delays, or affects commerce over which the Federal Government has jurisdiction, to manufacture, import, market, sell, and distribute such drug or device.

(b) STATE REGULATION OF MEDICINE.—The enforcement of State health and safety law regarding medical facilities or health care providers does not constitute a violation of subsection (a) if—

(1) such regulations are consistent with guidance from the American Society for Reproductive Medicine for providing ART or IUI; and

(2) the safety or health objective cannot be advanced by a different means that does not prohibit, limit, interfere with, or impede the rights described in subsection (a).

(c) ENFORCEMENT.—

(1) THE ATTORNEY GENERAL.—

(A) IN GENERAL.—The Attorney General may commence a civil action on behalf of the United States against any State; an individual, employee, official, agency head, contractor, organization, or instrumentality acting for, or on behalf of, such a State; or any individual acting under the color of, or pursuant to, State law, that implements, enforces, or threatens to enforce a limitation or requirement that prohibits, limits, interferes with, or impedes the statutory rights of an individual, a health care provider, a health insurance issuer, or a manufacturer under subsection (a).

(B) EFFECT OF VIOLATIONS.—The court shall hold unlawful and set aside a limitation or requirement described in subparagraph (A) if it is in violation of subsection (a).

(2) PRIVATE RIGHT OF ACTION.—

(A) IN GENERAL.—Any individual or entity adversely affected by an alleged violation of subsection (a) may commence a civil action against an individual, employee, official, agency head, contractor, organization, or instrumentality acting for, or on behalf of, such a State that enacts, implements, or enforces a limitation or requirement that prohibits, limits, interferes with, or impedes the statutory rights of an individual, a health care provider, a health insurance issuer, or a manufacturer under subsection (a).

(B) EFFECT OF VIOLATIONS.—The court shall hold unlawful and enjoin a limitation or requirement described in subparagraph (A) if it is in violation of subsection (a).

(3) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—A health care provider may commence a civil action for relief on such provider's own behalf, on behalf of the provider's staff, or on behalf of the provider's patients who are or may be adversely affected by an alleged violation of subsection (a).

(B) EFFECT OF VIOLATIONS.—The court shall hold unlawful and enjoin a limitation or

requirement described in subparagraph (A) if it is in violation of subsection (a).

(4) EQUITABLE RELIEF.—In any action under this section, the court may award appropriate equitable relief, including temporary, preliminary, or permanent injunctive relief.

(5) COSTS.—

(A) IN GENERAL.—In any action under this section, the court shall award costs of litigation, as well as reasonable attorney's fees, to any prevailing plaintiff.

(B) LIABILITY OF PLAINTIFFS.—A plaintiff shall not be liable to a defendant for costs or attorney's fees in any non-frivolous action under this section unless such costs or attorney's fees are imposed by the court as part of sanctions for violations committed during the discovery process.

(6) JURISDICTION.—The district courts of the United States shall have jurisdiction over proceedings under this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided for by law.

(7) RIGHT TO REMOVE.—

(A) IN GENERAL.—Any party shall have a right to remove an action brought under this subsection to the district court of the United States for the district and division embracing the place where such action is pending.

(B) REVIEW.—An order remanding the case to the State court from which it was removed under this paragraph is immediately reviewable by appeal or otherwise.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to carry out this section.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—For purposes of this title, a State law, or the administration, implementation, or enforcement of a State law, constitutes a prohibition, limitation, interference, or impediment on a health care provider providing, an individual receiving, a health insurance issuer covering, or a manufacturer marketing drugs or devices for ART or IUI, as described in this section, if the administration, implementation, interpretation, or enforcement of such law has an effect that—

(A) imposes requirements or limitations that are inconsistent with providing, receiving, providing health insurance coverage for, or providing drugs or devices for ART or IUI or that otherwise violate the purpose and requirements of this Act, which may include—

(i) requiring that a health care provider provide, and patients undertake, medically unnecessary procedures and services, including tests and procedures, providing medically inaccurate information regarding ART or IUI, or requiring additional unnecessary in-person visits to a health care provider;

(ii) imposing limitations or requirements concerning physical offices, clinics, facilities, equipment, staffing, or hospital transfer arrangements of facilities where ART or IUI are provided, or the credentials or hospital privileges or status of personnel at such facilities; or

(iii) limiting a health care provider's right or ability to provide, or a patient's right to receive, continue or complete ART or IUI, or imposing limitations that reduce

the efficacy of, ART or IUI, including limitations on—

(I) retrieval of multiple eggs during oocyte retrieval;

(II) intracytoplasmic sperm injections to fertilize multiple human eggs; and

(III) cryopreservation of one or more eggs, sperm, or embryos if determined appropriate by the health care provider and patient;

(B) infringes, limits, or restricts the ability of a health care provider, patient, health insurance issuer, or manufacturer, to exercise or enforce their statutory rights under this title on the basis of marital status, sex (including sexual orientation and gender identity) or any other protected class that is covered by Federal law;

(C) limits a health care provider's or patient's right or ability to determine the most appropriate disposition of reproductive genetic material, including by defining a gamete or embryo in such a way to limit an individual's op-

tions for how their reproductive genetic material should be handled;

(D) limits a health care provider's ability to provide, or a patient's ability to receive, ART or IUI via telemedicine;

(E) limits or prohibits a health care provider's ability to provide, or a patient's ability to receive, counseling regarding ART or IUI based on the residency of the patient, or prohibits or limits the ability of any individual to assist or support a patient seeking ART or IUI;

(F) imposes requirements or limitations that compel health care providers to provide, or patients to receive, medically unnecessary care, or withhold medically necessary care, including mandating the transfer of embryos that a health care provider would not reasonably expect, based on American Society for Reproductive Medicine guidelines, to lead to a pregnancy or a live birth; or

(G) limits a health care provider's right or ability to prescribe or dispense, or a patient's right or ability to receive or use, medications for ART or IUI, unless such a limitation is gen-

erally applicable to the prescription, dispensing, or distribution of medications.

(2) CLARIFICATION.—The descriptions of specific State laws that would violate the statutory rights and protections described in paragraph (1) shall not be construed to limit potential violations of the statutory rights and protections under this title to only the restrictions and limitations listed in paragraph (1), and potential violations of this title may result from novel State restrictions and limitations that are not listed under paragraph (1).

(3) EXCLUSION.—It shall not constitute a prohibition, limitation, interference, or impediment to a health care provider providing, an individual receiving, a health insurance issuer covering, or a manufacturer marketing a drug or device for purposes of, ART or IUI under this title for an entity to act in compliance with the Food and Drug Administration's regulation of drugs, devices, biological products, human cells, tissues, or cellular or tissue-based products used in ART or IUI.

**SEC. 105. APPLICABILITY AND PREEMPTION.**

(a) IN GENERAL.—

(1) GENERAL APPLICATION.—

(A) EFFECT ON STATE LAW.—This title supersedes any State law that is inconsistent with the statutory rights established under this title and precludes the implementation of such a law, whether statutory, common law, or otherwise, and whether adopted before or after the date of enactment of this Act.

(B) PROHIBITION.—No State shall administer, implement, or enforce any law, rule, regulation, standard, or other provision having the force and effect of law that conflicts with any provision of this title, notwithstanding any other provision of Federal law.

(2) EXCLUSION.—Preemption of State law under paragraph (1) does not apply to—

(A) State law regarding the resolution of disputes between 2 individuals with rights described in section 104(a)(1) with respect to the same reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos; or

(B) any other State law, to the extent that such law does not conflict with this title and protects an individual's right and ability to receive ART or IUI in accordance with American Society for Reproductive Medicine guidelines,

including any such law that holds a health care provider accountable for not providing ART or IUI in accordance with such guidelines.

(3) PRESERVATION OF FEDERAL PUBLIC HEALTH AUTHORITIES.—Nothing in this title shall have the effect of superseding, negating, or limiting provisions of Federal law, including the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.), and regulations promulgated under such statutes, with respect to the regulation of drugs, devices, biological products, human cells, tissues, or cellular or tissue-based products used in ART or IUI.

(4) PRESERVATION OF HIPAA RULES.—Nothing in this title shall have the effect of superseding, negating, or limiting the provisions of the privacy, security, and breach notification regulations in parts 160 and 164 of title 45, Code of Federal Regulations (or successor regulations).

(5) SUBSEQUENTLY ENACTED FEDERAL LEGISLATION.—Federal statutory law adopted after the date of the enactment of this Act is subject to this title unless such law explicitly excludes such application by reference to this title.

(b) DEFENSE.—In any cause of action against an individual or entity who is subject to a limitation or requirement that violates this title, in addition to the remedies specified in section 104(c), this title shall also apply to, and may be raised as a defense by, such an individual or entity.

# TITLE II—VETERAN FAMILIES HEALTH SERVICES

**SEC. 200. SHORT TITLE.**

This title may be cited as the ''Veteran Families Health Services Act''.

## Subtitle A—Reproductive and Fertility Preservation Assistance for Members of the Uniformed Services

**SEC. 201. DEFINITIONS.**

In this subtitle:

(1) ACTIVE DUTY.—The term ''active duty'' has the meaning given that term in section 101(18) of title 37, United States Code.

(2) ASSISTED REPRODUCTIVE TECHNOLOGY.—The term ''assisted reproductive technology'' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or em-

bryo cryopreservation, and egg or embryo donation. Such term includes any medication related to such a treatment or procedure.

(3) INTRAUTERINE INSEMINATION.—The term ''intrauterine insemination'' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term includes any medication associated with such a procedure.

(4) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a)(5) of title 10, United States Code.

**SEC. 202. PROVISION OF ASSISTED REPRODUCTIVE TECHNOLOGY, INTRAUTERINE INSEMINATION, AND COUNSELING TO CERTAIN MEMBERS OF THE UNIFORMED SERVICES AND SPOUSES, PARTNERS, AND GESTATIONAL SURROGATES OF SUCH MEMBERS.**

(a) ASSISTED REPRODUCTIVE TECHNOLOGY AND COUNSELING AND INTRAUTERINE INSEMINATION.—

(1) IN GENERAL.—The Secretary of Defense shall make available assisted reproductive technology, intrauterine insemination, and counseling to a member of the uniformed services or a spouse, partner, or gestational surrogate of such a member.

(2) ELIGIBILITY FOR TREATMENT AND COUNSELING.—Assisted reproductive technology, intrauterine insemination, and counseling shall be furnished under paragraph (1) without regard to the sex, sex characteristics, gender identity, sexual orientation, infertility diagnosis, or marital status of the member of the uniformed services or their partner.

(3) IN VITRO FERTILIZATION.—In the case of in vitro fertilization treatment furnished under paragraph (1), the Secretary shall furnish to an individual under such paragraph—

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

(B) unlimited embryo transfers.

(b) PROCUREMENT OF REPRODUCTIVE GENETIC MATERIAL.—If a member of the uniformed services is unable to provide their reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, for purposes of assisted reproductive technology or intrauterine insemination under subsection (a), the Secretary shall, at the election of such member, allow such member to receive assisted reproductive technology or intrauterine insemination with donated reproductive genetic material and pay

or reimburse such member the reasonable costs of procuring such material from a donor.

(c) RULES OF CONSTRUCTION.—

(1) IMPACT ON EXISTING AUTHORITY.—Nothing in this section shall be construed to rescind the authority of the Secretary to provide in vitro fertilization benefits pursuant to section 1074(c)(4) of title 10, United States Code.

(2) SOURCING OF GESTATIONAL SURROGATE OR REPRODUCTIVE GENETIC MATERIAL.—Nothing in this section shall be construed to require the Secretary—

(A) to find or certify a gestational surrogate for a member of the uniformed services or to connect a gestational surrogate with such a member; or

(B) to find or certify reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, from a donor for a member of the uniformed services or to connect such a member with reproductive genetic material from a donor.

(d) DEFINITIONS.—In this section:

(1) GESTATIONAL SURROGATE.—The term ''gestational surrogate'' means an individual who

agrees to attempt to become pregnant through in vitro fertilization under a gestational surrogacy agreement using gametes that are not the gametes of that individual.

(2) PARTNER.—The term ''partner'', with respect to a member of the uniformed services, means an individual selected by the member who agrees to be a parent, with the member, of a child born as a result of the use of any assisted reproductive technology or intrauterine insemination under this section.

**SEC. 203. ESTABLISHMENT OF FERTILITY PRESERVATION PROCEDURES FOR MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY.**

(a) AFTER AN INJURY OR ILLNESS.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Health Affairs, shall establish procedures for the retrieval, cryopreservation, and storage of reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, as soon as medically appropriate, by the Department of Defense or a private entity from a member of the uniformed services in cases in which the fertility of such member is potentially jeopardized as a result of an injury or illness incurred or aggravated while serving on

active duty in the uniformed services in order to preserve the medical options of such member.

(b) PRIOR TO DEPLOYMENT OR CERTAIN ASSIGNMENTS.—The Secretary of Defense shall provide members of the uniformed services on active duty in the uniformed services with the opportunity to cryopreserve and store their reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, at a facility of the Department of Defense or of a private entity, prior to—

(1) deployment to a combat zone; or

(2) a duty assignment that includes a hazardous assignment, including—

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

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

(c) PERIOD OF TIME.—

(1) IN GENERAL.—The Secretary shall provide for the cryopreservation and storage of reproductive genetic material of any member of the uniformed services under this section in a facility of the Department of Defense or of a private entity and the transportation of such material, at no cost to the member, until the date that is one year after the re-

tirement, separation, or release of the member from the uniformed services.

(2) NOTICE OF OPTIONS FOLLOWING STORAGE.—

(A) IN GENERAL.—Upon the date of retirement, separation, or release of any member who has cryopreserved and stored genetic material under this section, the Secretary shall notify such member that the Department of Defense shall continue to provide for the cryopreservation and storage of reproductive genetic material for one year and that at the end of such one-year period the reproductive genetic material shall be handled as directed by the member in writing.

(B) DIRECTION BY MEMBER.—The direction of a member under subparagraph (A) may be provided to the Department of Defense or the private entity storing the genetic material in a consent agreement or similar type of form signed by the member prior to retrieval and cryopreservation or, if applicable, a form that has superseded the original consent agreement or similar type of form that was signed by the member after the cryopreservation but on or be-

fore the date that is one year after the retirement, separation, or release of the member from the uniformed services.

(d) ADVANCE MEDICAL DIRECTIVE AND MILITARY TESTAMENTARY INSTRUMENT.—A member of the uniformed services who is eligible to cryopreserve and store their reproductive genetic material under this section must complete an advance medical directive, as defined in section 1044c(b) of title 10, United States Code, and a military testamentary instrument, as defined in section 1044d(b) of such title, that explicitly specifies whether such member consents to the procedures described in subsection (a) and how any cryopreserved and stored reproductive genetic material shall be handled if such member dies or otherwise loses the capacity to consent to the use of their cryopreserved and stored reproductive genetic material.

(e) AGREEMENTS.—

(1) AGREEMENTS WITH PRIVATE ENTITIES.—To carry out this section, the Secretary may enter into agreements with private entities that provide cryopreservation, transportation, and storage services for reproductive genetic material.

(2) NO CONTRACTUAL OR LIABILITY OBLIGATION FOR AGREEMENTS BETWEEN PRIVATE ENTI-

TIES AND MEMBERS.—The United States shall not be—

(A) considered a party to any agreement, consent form, or other contractual arrangement or commitment between a member of the uniformed services and a private entity that provides cryopreservation, transportation, and storage services for reproductive genetic material; or

(B) responsible for the management of reproductive genetic material cryopreserved or stored at a private entity pursuant to such agreement, consent form, or other contractual arrangement or commitment.

**SEC. 204. ASSISTANCE WITH AND CONTINUITY OF CARE REGARDING REPRODUCTIVE AND FERTILITY PRESERVATION SERVICES.**

The Secretary of Defense shall ensure that employees of the Department of Defense assist members of the uniformed services—

(1) in navigating the services provided under this subtitle;

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

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

**SEC. 205. COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS ON FURNISHING OF ASSISTED REPRODUCTIVE TECHNOLOGY, INTRAUTERINE INSEMINATION, AND COUNSELING.**

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall share best practices and facilitate referrals, as they consider appropriate, on the furnishing of assisted reproductive technology, intrauterine insemination, and counseling to individuals eligible for the receipt of such counseling and services from the Secretaries.

(b) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense and the Secretary of Veterans Affairs shall enter into a memorandum of understanding providing that the Secretary of Defense will ensure access by the Secretary of Veterans Affairs to reproductive genetic material, such as oocytes, sperm, fertilized eggs, and embryos, of veterans stored by the Department of Defense for purposes of furnishing assisted reproductive technology and intrauterine insemination under section 1720M

of title 38, United States Code, as added by section 212(a).

**SEC. 206. REGULATIONS.**

Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to carry out this subtitle.

# Subtitle B—Reproductive Assistance for Veterans

**SEC. 211. INCLUSION OF ASSISTED REPRODUCTIVE TECHNOLOGY, INTRAUTERINE INSEMINATION, AND COUNSELING UNDER THE DEFINITION OF MEDICAL SERVICES IN TITLE 38.**

Section 1701(6) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

''(J) Assisted reproductive technology, intrauterine insemination, and counseling under section 1720M of this title.''.

**SEC. 212. ASSISTED REPRODUCTIVE TECHNOLOGY, INTRAUTERINE INSEMINATION, AND COUNSELING FOR CERTAIN VETERANS AND SPOUSES, PARTNERS, AND GESTATIONAL SURROGATES OF SUCH VETERANS.**

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

**"§ 1720M. Assisted reproductive technology, intrauterine insemination, and counseling for certain veterans and spouses, partners, and gestational surrogates of such veterans**

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, including the surrogacy laws of any State, the Secretary shall furnish assisted reproductive technology, intrauterine insemination, and counseling for the benefit of a covered veteran to the veteran and the spouse, partner, gamete donor, or gestational surrogate of the veteran if the veteran, and the spouse, partner, gamete donor, or gestational surrogate of the veteran, as applicable, each provide informed consent for such assisted reproductive technology, intrauterine insemination, and counseling, including for each cycle of treatment author-

ized under this section, through a process prescribed by the Secretary.

''(2) PROVISION OF TREATMENT AND COUNSELING.—Assisted reproductive technology, intrauterine insemination, and counseling shall be furnished under paragraph (1) without regard to the sex, sexual characteristics, gender identity, sexual orientation, infertility diagnosis, or marital status of the covered veteran or their partner.

''(3) IN VITRO FERTILIZATION.—In the case of in vitro fertilization treatment furnished under paragraph (1), the Secretary shall furnish to an individual under such paragraph—

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

''(B) unlimited embryo transfers.

''(4) COPAYMENT.—The Secretary shall only furnish assisted reproductive technology, intrauterine insemination, and counseling under paragraph (1) to a covered veteran who is required to pay to the United States a copayment amount as a condition for the receipt of hospital care, medical services, or medications under this chapter if the covered veteran agrees to pay such applicable copay-

ment amount to the United States for such assisted reproductive technology and counseling.

''(b) PROCUREMENT OF REPRODUCTIVE GENETIC MATERIAL.—

''(1) IN GENERAL.—If a covered veteran is unable to provide their reproductive genetic material for purposes of assisted reproductive technology or intrauterine insemination under subsection (a), the Secretary shall, at the election of such veteran—

''(A) allow such veteran to receive assisted reproductive technology or intrauterine insemination with donated reproductive genetic material, if the donor provides informed consent for use of such material; and

''(B) pay or reimburse the veteran, donor, or a party acting on behalf of the donor the reasonable costs of procuring such material from the donor.

''(2) OTHER EXPENSES.—The Secretary may pay or reimburse a covered veteran a reasonable amount for personal travel and incidental expenses associated with procuring material from a donor under paragraph (1).

''(c) OUTREACH AND TRAINING.—The Secretary shall carry out an outreach and training program to en-

sure veterans and health care providers of the Department are aware of—

''(1) the availability of and eligibility requirements for assisted reproductive technology, intrauterine insemination, and counseling under this section; and

''(2) any changes to assisted reproductive technology, intrauterine insemination, and counseling covered under this section.

''(d) OWNERSHIP, USE, OR DISPOSITION OF REPRODUCTIVE GENETIC MATERIAL.—

''(1) IN GENERAL.—Issues or disputes regarding use or disposition of reproductive genetic material under this section shall be the sole responsibility of the covered veteran, the spouse or partner of the covered veteran, as applicable, and the private facility storing such material.

''(2) AGREEMENT REGARDING DONATED REPRODUCTIVE GENETIC MATERIAL.—As a condition of the use of donated gametes or embryos under this section, the third-party donor and a provider of assisted reproductive technology or intrauterine insemination that has entered into a contract or agreement with the Secretary to provide assisted reproductive technology or intrauterine insemination

under this section shall enter into an arrangement or agreement governing the terms of the donation, including how any remaining cryopreserved and stored reproductive genetic material will be handled once a covered veteran has exhausted the assisted reproductive technology or intrauterine insemination services available under this section, unless the veteran or the spouse or partner of the veteran has agreed to assume liability for the continued preservation of any remaining gametes or embryos and the Department is not party to the arrangement or agreement for such continued preservation.

''(3) ROLE OF DEPARTMENT.—The role of the Secretary under this section is limited to furnishing assisted reproductive technology, intrauterine insemination, and counseling required under this section when requested by a covered veteran and determined necessary by the Secretary.

''(4) OWNERSHIP AND CUSTODY OF REPRODUCTIVE GENETIC MATERIAL.—The Secretary will not have ownership or custody of any reproductive genetic material obtained pursuant to treatment under this section and will not be involved in disputes between or among any parties with respect to such material.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the Secretary—

''(1) to find or certify a gestational surrogate for a covered veteran or to connect a gestational surrogate with a covered veteran; or

''(2) to furnish maternity care to a covered veteran or spouse, partner, or gestational surrogate of a covered veteran beyond what is otherwise required or authorized by law.

''(f) DEFINITIONS.—In this section:

''(1) The term 'assisted reproductive technology' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or embryo cryopreservation, and egg or embryo donation. Such term includes any medication related to such a treatment or procedure.

''(2) The term 'covered veteran' means a veteran who is enrolled in the system of annual patient enrollment established under section 1705(a) of this title.

''(3) The term 'gestational surrogate' means an individual who agrees to attempt to become pregnant through in vitro fertilization under a gestational

surrogacy agreement using gametes that are not the gametes of that individual.

''(4) The term 'intrauterine insemination' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term includes any medication associated with such a procedure.

''(5) The term 'partner', with respect to a covered veteran, means an individual selected by the veteran who agrees to be a parent, with the veteran, of a child born as a result of the use of any assisted reproductive technology or intrauterine insemination under this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1720L the following new item:

''1720M. Assisted reproductive technology, intrauterine insemination, and counseling for certain veterans and spouses, partners, and gestational surrogates of such veterans.''.

(c) SUNSET OF EXISTING AUTHORITY.—The authority under section 234(a)(1) of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2024 (division A of Public Law 118–42), or any similar authority subsequently enacted by law, shall cease on the effective date of regulations prescribed to carry out

section 1720M of title 38, United States Code, as added by subsection (a).

**SEC. 213. ASSISTANCE WITH AND CONTINUITY OF CARE REGARDING REPRODUCTIVE AND FERTILITY PRESERVATION SERVICES.**

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

(1) in navigating the services provided under this subtitle and the amendments made by this subtitle;

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

(3) in continuing the receipt of such services without interruption if such veterans move to a different geographic location.

**SEC. 214. COORDINATION OF REPRODUCTION AND FERTILITY RESEARCH FOR VETERANS.**

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

**"§ 7330E. Coordination of reproduction and fertility research for veterans**

''(a) COORDINATION OF RESEARCH REQUIRED.—The Secretary shall coordinate with the Secretary of Defense

and the Secretary of Health and Human Services to conduct research to improve the ability of the Department of Veterans Affairs to meet the long-term reproductive health care needs of veterans who have a condition that affects the ability of the individual to reproduce.

''(b) DISSEMINATION OF INFORMATION.—The Secretary shall ensure that information produced by the research under this section that may be useful for other activities of the Department is disseminated throughout the Department.''.

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

''7330E. Coordination of reproduction and fertility research for veterans.''.

# TITLE III—ACCESS TO ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Access to Fertility Treatment and Care Act''.

**SEC. 302. STANDARDS RELATING TO BENEFITS FOR ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

(a) IN GENERAL.—

(1) PHSA.—Part D of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–111 et seq.) is amended by adding at the end the following:

**"SEC. 2799A–12. STANDARDS RELATING TO BENEFITS FOR ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

''(a) IN GENERAL.—A group health plan or a health insurance issuer offering group or individual health insurance coverage shall provide coverage for assisted reproductive technology and intrauterine insemination.

''(b) DEFINITION.—

''(1) ASSISTED REPRODUCTIVE TECHNOLOGY; ART.—The term 'assisted reproductive technology' or 'ART' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or embryo cryopreservation, and egg or embryo donation. Such term includes any medication related to such a treatment or procedure.

''(2) INTRAUTERINE INSEMINATION; IUI.—The term 'intrauterine insemination' or 'IUI' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term

includes any medication associated with such a procedure.

''(c) REQUIRED COVERAGE.—A group health plan and a health insurance issuer offering group or individual health insurance coverage shall provide coverage for ART and IUI determined appropriate by the health care provider, regardless of whether the participant, beneficiary, or enrollee receiving ART or IUI has been diagnosed with infertility as defined by the American Society for Reproductive Medicine, if the ART or IUI is performed at, or prescribed by, a licensed medical facility.

''(d) LIMITATION.—Cost-sharing, including deductibles and coinsurance, or other limitations for ART or IUI may not be imposed with respect to ART or IUI required to be covered under subsection (c) to the extent that such cost-sharing exceeds the cost-sharing applied to other medical services under the group health plan or health insurance coverage or such other limitations are different from limitations imposed with respect to such medical services, except where such limitation is more favorable with respect to ART or IUI. The Secretary shall promulgate interim final regulations to carry out this subsection, notwithstanding the notice and comment requirements of section 553 of title 5, United States Code.

''(e) PROHIBITIONS.—A group health plan and a health insurance issuer offering group or individual health insurance coverage may not—

''(1) provide incentives (monetary or otherwise) to a participant, beneficiary, or enrollee to encourage such participant, beneficiary, or enrollee not to seek or obtain ART or IUI to which such participant, beneficiary, or enrollee is entitled under this section or to providers to induce such providers not to provide medically appropriate ART or IUI to participants, beneficiaries, or enrollees;

''(2) prohibit a provider from discussing with a participant, beneficiary, or enrollee ART or IUI relating to this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided ART or IUI to a qualified participant, beneficiary, or enrollee in accordance with this section; or

''(4) on the ground prohibited under title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or section 1557 of the Patient Protection and Affordable Care Act, exclude any individual

from coverage in accordance with this section, or discriminate against any individual with respect to such coverage.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a participant, beneficiary, or enrollee to undergo ART or IUI.

''(g) NOTICE.—A group health plan and a health insurance issuer offering group or individual health insurance coverage shall provide notice to each participant, beneficiary, and enrollee under such plan or coverage regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) not later than the earlier of—

''(A) in the first standard mailing made by the plan or issuer to the participant, beneficiary, or enrollee following the effective date of such regulations;

''(B) as part of any yearly informational packet sent to the participant, beneficiary, or enrollee; or

''(C) January 1, 2027;

''(2) in the case of a participant, beneficiary, or enrollee not enrolled in the plan or coverage on the date of transmission under paragraph (1), upon initial enrollment of such participant, beneficiary, or enrollee; and

''(3) on an annual basis after the transmission under paragraph (1) or (2).

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group or individual health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.''.

(2) ERISA.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

**''SEC. 727. STANDARDS RELATING TO BENEFITS FOR ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

''(a) IN GENERAL.—A group health plan or a health insurance issuer offering group health insurance coverage

shall provide coverage for assisted reproductive technology and intrauterine insemination.

''(b) DEFINITIONS.—

''(1) ASSISTED REPRODUCTIVE TECHNOLOGY OR ART.—The term 'assisted reproductive technology' or 'ART' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or embryo cryopreservation, and egg or embryo donation. Such term includes any medication related to such a treatment or procedure.

''(2) INTRAUTERINE INSEMINATION; IUI.—The term 'intrauterine insemination' or 'IUI' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term includes any medication associated with such a procedure.

''(c) REQUIRED COVERAGE.—A group health plan and a health insurance issuer offering group health insurance coverage shall provide coverage for ART and IUI determined appropriate by the health care provider, regardless of whether the participant or beneficiary receiving ART or IUI has been diagnosed with infertility as defined by the American Society for Reproductive Medicine, if the

ART or IUI is performed at, or prescribed by, a licensed medical facility.

''(d) LIMITATION.—Cost-sharing, including deductibles and coinsurance, or other limitations for ART or IUI may not be imposed with respect to ART or IUI required to be covered under subsection (c) to the extent that such cost-sharing exceeds the cost-sharing applied to other medical services under the group health plan or health insurance coverage or such other limitations are different from limitations imposed with respect to such medical services, except where such limitation is more favorable with respect to ART or IUI. The Secretary shall promulgate interim final regulations to carry out this subsection, notwithstanding the notice and comment requirements of section 553 of title 5, United States Code.

''(e) PROHIBITIONS.—A group health plan and a health insurance issuer offering group health insurance coverage may not—

''(1) provide incentives (monetary or otherwise) to a participant or beneficiary to encourage such participant or beneficiary not to seek or obtain ART or IUI to which such participant or beneficiary is entitled under this section or to providers to induce such providers not to provide medically appropriate ART or IUI to participants or beneficiaries;

"(2) prohibit a provider from discussing with a participant or beneficiary ART or IUI relating to this section;

"(3) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided ART or IUI to a qualified participant or beneficiary in accordance with this section; or

"(4) on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116), exclude any individual from coverage in accordance with this section, or discriminate against any individual with respect to such coverage.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a participant or beneficiary to undergo ART or IUI.

"(g) NOTICE.—A group health plan and a health insurance issuer offering group health insurance coverage shall provide notice to each participant and beneficiary under such plan or coverage regarding the coverage re-

quired by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) not later than the earlier of—

''(A) in the first standard mailing made by the plan or issuer to the participant or beneficiary following the effective date of such regulations;

''(B) as part of any yearly informational packet sent to the participant or beneficiary; or

''(C) January 1, 2027;

''(2) in the case of a participant or beneficiary not enrolled in the plan or coverage on the date of transmission under paragraph (1), upon initial enrollment of such participant or beneficiary; and

''(3) on an annual basis after the transmission under paragraph (1) or (2).

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.''.

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the item relating to section 726 the following new item:

''Sec. 727. Standards relating to benefits for assisted reproductive technology and intrauterine insemination.''.

(3) IRC.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

**''SEC. 9827. STANDARDS RELATING TO BENEFITS FOR ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

''(a) IN GENERAL.—A group health plan shall provide coverage for assisted reproductive technology and intrauterine insemination.

''(b) DEFINITION.—

''(1) ASSISTED REPRODUCTIVE TECHNOLOGY; ART.—The term 'assisted reproductive technology' or 'ART' means any treatment or procedure that includes the handling of human eggs or embryos to help achieve a pregnancy, including in vitro fertilization, egg or embryo cryopreservation, and egg or em-

bryo donation. Such term includes any medication related to such a treatment or procedure.

''(2) INTRAUTERINE INSEMINATION; IUI.—The term 'intrauterine insemination' or 'IUI' means a procedure that places sperm directly into an individual's uterus at the time of the individual's ovulation to increase the chances of fertilization. Such term includes any medication associated with such a procedure.

''(c) REQUIRED COVERAGE.—A group health plan shall provide coverage for ART and IUI determined appropriate by the health care provider, regardless of whether the participant or beneficiary receiving ART or IUI has been diagnosed with infertility as defined by the American Society for Reproductive Medicine, if the ART or IUI is performed at, or prescribed by, a licensed medical facility.

''(d) LIMITATION.—Cost-sharing, including deductibles and coinsurance, or other limitations for ART or IUI may not be imposed with respect to ART or IUI required to be covered under subsection (c) to the extent that such cost-sharing exceeds the cost-sharing applied to other medical services under the group health plan or health insurance coverage or such other limitations are different from limitations imposed with respect to such medical services, except where such limitation is more fa-

vorable with respect to ART or IUI. The Secretary shall promulgate interim final regulations to carry out this subsection, notwithstanding the notice and comment requirements of section 553 of title 5, United States Code.

''(e) PROHIBITIONS.—A group health plan may not—

''(1) provide incentives (monetary or otherwise) to a participant or beneficiary to encourage such participant or beneficiary not to seek or obtain ART or IUI to which such participant or beneficiary is entitled under this section or to providers to induce such providers not to provide medically appropriate ART or IUI to participants or beneficiaries;

''(2) prohibit a provider from discussing with a participant or beneficiary ART or IUI relating to this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided ART or IUI to a qualified participant or beneficiary in accordance with this section; or

''(4) on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794),

or section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116), exclude any individual from coverage in accordance with this section, or discriminate against any individual with respect to such coverage.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a participant or beneficiary to undergo ART or IUI.

''(g) NOTICE.—A group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan and shall be transmitted—

''(1) not later than the earlier of—

''(A) in the first standard mailing made by the plan to the participant or beneficiary following the effective date of such regulations;

''(B) as part of any yearly informational packet sent to the participant or beneficiary; or

''(C) January 1, 2027;

''(2) in the case of a participant or beneficiary not enrolled in the plan on the date of transmission

under paragraph (1), upon initial enrollment of such participant or beneficiary; and

''(3) on an annual basis after the transmission under paragraph (1) or (2).

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.''.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 9827. Standards relating to benefits for assisted reproductive technology and intrauterine insemination.''.

(b) CONFORMING AMENDMENTS.—

(1) PHSA.—Section 2724(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2799A–12''.

(2) ERISA.—Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 727''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply for plan years beginning on or after the date that is 6 months after the date of enactment of this Act.

(2) COLLECTIVE BARGAINING EXCEPTION.—

(A) IN GENERAL.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(i) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) the date occurring 6 months after the date of the enactment of this Act.

(B) CLARIFICATION.—For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by sub-

section (a) shall not be treated as a termination of such collective bargaining agreement.

**SEC. 303. REQUIREMENT FOR STATE MEDICAID PLANS TO PROVIDE MEDICAL ASSISTANCE FOR ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)(4)(C), by inserting ''(which shall include assisted reproductive technology (ART) and intrauterine insemination (IUI) provided in accordance with subsection (ll))'' after ''family planning services and supplies''; and

(2) by adding at the end the following new subsection:

''(ll) REQUIREMENTS FOR COVERAGE OF ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION .—For purposes of subsection (a)(4)(C), a State shall ensure that the medical assistance provided under the State plan (or waiver of such plan) for assisted reproductive technology (ART) and intrauterine insemination (IUI) complies with the requirements of section 2799A–12(b) of the Public Health Service Act in the same manner as such requirements and limitations apply to

health insurance coverage offered by a group health plan or health insurance issuer.''.

(b) TECHNICAL AMENDMENT.—Section 1903(a)(5) of the Social Security Act (42 U.S.C. 1396b(a)(5)) is amended by inserting ''described in section 1905(a)(4)(C)'' after ''family planning services and supplies''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2027.

(2) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of the failure of the plan to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that ends after the 1-year period beginning with the date

of the enactment of this section. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

**SEC. 304. MEDICARE COVERAGE OF ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION.**

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (JJ), by striking ''and'' at the end;

(2) in subparagraph (KK), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(LL) assisted reproductive technology and intrauterine insemination (as defined in section 2799A–12(b) of the Public Health Service Act);''.

(b) PAYMENT AND WAIVER OF COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(1) by striking ''and'' before ''(HH)''; and

(2) by inserting before the semicolon at the end the following: '', and (II) with respect to assisted re-

productive technology and intrauterine insemination (as described in section 1861(s)(2)(LL)), the amount paid shall be equal to 100 percent of the lesser of the actual charge for the treatment or the amount determined under the payment basis determined under section 1848''.

(c) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(1) by striking '', and (13)'' and inserting ''(13)''; and

(2) by striking ''1861(n)..'' and inserting ''1861(n), and (14) such deductible shall not apply with respect to assisted reproductive technology (as described in section 1861(s)(2)(LL)).''.

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(LL)'' after ''risk assessment),''.

(e) CONFORMING AMENDMENT REGARDING COVERAGE.—Section 1862(a)(1)(A) of the Social Security Act (42 U.S.C. 1395y(a)(1)(A)) is amended by inserting '', or assisted reproductive technology (as described in section 1861(s)(2)(LL)) and intrauterine insemination'' after ''1861(ddd)(1))''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2027.

# TITLE IV—FAMILY BUILDING FEHB FAIRNESS

## SEC. 401. SHORT TITLE.

This title may be cited as the ''Family Building FEHB Fairness Act''.

## SEC. 402. ASSISTED REPRODUCTIVE TECHNOLOGY AND INTRAUTERINE INSEMINATION BENEFITS.

(a) IN GENERAL.—Section 8904 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end the following:

''(G) Assisted reproductive technology and intrauterine insemination benefits.''; and

(B) in paragraph (2)—

(i) by redesignating subparagraph (F) as subparagraph (G); and

(ii) by inserting after subparagraph (E) the following:

''(F) Assisted reproductive technology and intrauterine insemination benefits.''; and

(2) by adding at the end the following:

''(c) DEFINITIONS.—In this section, the terms 'assisted reproductive technology' and 'intrauterine insemination' have the meanings given such terms in section 103 of the Right to IVF Act of 2026.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of enactment of this Act.