

SENATE BILL 1

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(PRE-FILED)

6lr0339
CF HB 11

By: **Senator Kagan**

Requested: May 28, 2015

Introduced and read first time: January 13, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 28, 2016

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – In Vitro Fertilization – Use of Spouse’s Sperm – Exception**

3 FOR the purpose of altering the circumstances under which certain insurers, nonprofit
4 health service plans, and health maintenance organizations must provide benefits
5 for certain expenses arising from in vitro fertilization procedures; providing a certain
6 exception to the required use of a spouse’s sperm to fertilize the oocytes of a patient
7 whose spouse is of the opposite sex; providing for the application of this Act; and
8 generally relating to health insurance coverage for in vitro fertilization procedures.

9 BY repealing and reenacting, with amendments,
10 Article – Insurance
11 Section 15–810
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2015 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Insurance**

17 15–810.

18 (a) This section applies to:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (1) insurers and nonprofit health service plans that provide hospital,
2 medical, or surgical benefits to individuals or groups on an expense-incurred basis under
3 health insurance policies that are issued or delivered in the State; and

4 (2) health maintenance organizations that provide hospital, medical, or
5 surgical benefits to individuals or groups under contracts that are issued or delivered in
6 the State.

7 (b) An entity subject to this section that provides coverage for infertility benefits
8 other than in vitro fertilization may not require as a condition of that coverage, for a patient
9 who is married to an individual of the same sex:

10 (1) that the patient's spouse's sperm be used in the covered treatments or
11 procedures; or

12 (2) that the patient demonstrate infertility exclusively by means of a
13 history of unsuccessful heterosexual intercourse.

14 (c) (1) This subsection does not apply to insurers, nonprofit health service
15 plans, and health maintenance organizations that provide hospital, medical, or surgical
16 benefits under health insurance policies or contracts:

17 (i) that are issued or delivered to a small employer in the State; and

18 (ii) for which the Administration has determined that in vitro
19 fertilization procedures are not essential health benefits, as determined under § 31-116 of
20 this article.

21 (2) An entity subject to this section that provides pregnancy-related
22 benefits may not exclude benefits for all outpatient expenses arising from in vitro
23 fertilization procedures performed on a policyholder or subscriber or on the dependent
24 spouse of a policyholder or subscriber.

25 (3) The benefits under this subsection shall be provided:

26 (i) for insurers and nonprofit health service plans, to the same
27 extent as the benefits provided for other pregnancy-related procedures; and

28 (ii) for health maintenance organizations, to the same extent as the
29 benefits provided for other infertility services.

30 (d) Subsection (c) of this section applies if:

31 (1) the patient is the policyholder or subscriber or a covered dependent of
32 the policyholder or subscriber;

1 (2) for a patient whose spouse is of the opposite sex, the patient's oocytes
2 are fertilized with the patient's spouse's sperm, **UNLESS:**

3 (I) **THE PATIENT'S SPOUSE IS UNABLE TO PRODUCE AND**
4 **DELIVER FUNCTIONAL SPERM; AND**

5 (II) **THE INABILITY TO PRODUCE AND DELIVER FUNCTIONAL**
6 **SPERM DOES NOT RESULT FROM:**

7 1. **A VASECTOMY; OR**

8 2. **ANOTHER METHOD OF VOLUNTARY STERILIZATION;**

9 (3) (i) the patient and the patient's spouse have a history of involuntary
10 infertility, which may be demonstrated by a history of:

11 1. if the patient and the patient's spouse are of opposite
12 sexes, intercourse of at least 2 years' duration failing to result in pregnancy; or

13 2. if the patient and the patient's spouse are of the same sex,
14 six attempts of artificial insemination over the course of 2 years failing to result in
15 pregnancy; or

16 (ii) the infertility is associated with any of the following medical
17 conditions:

18 1. endometriosis;

19 2. exposure in utero to diethylstilbestrol, commonly known
20 as DES;

21 3. blockage of, or surgical removal of, one or both fallopian
22 tubes (lateral or bilateral salpingectomy); or

23 4. abnormal male factors, including oligospermia,
24 contributing to the infertility;

25 (4) the patient has been unable to attain a successful pregnancy through a
26 less costly infertility treatment for which coverage is available under the policy or contract;
27 and

28 (5) the in vitro fertilization procedures are performed at medical facilities
29 that conform to applicable guidelines or minimum standards issued by the American
30 College of Obstetricians and Gynecologists or the American Society for Reproductive
31 Medicine.

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1 (e) An entity subject to this section may limit coverage of the benefits for in vitro
2 fertilization required under this section to three in vitro fertilization attempts per live birth,
3 not to exceed a maximum lifetime benefit of \$100,000.

4 (f) An entity subject to this section is not responsible for any costs incurred by a
5 policyholder or subscriber or a dependent of a policyholder or subscriber in obtaining donor
6 sperm.

7 (g) A denial of coverage for in vitro fertilization benefits required under this
8 section by an entity subject to this section constitutes an adverse decision under Subtitle
9 10A of this title.

10 (h) This section may not be construed to require an entity subject to this section
11 to provide coverage for a treatment or a procedure that would not treat a diagnosed medical
12 condition of a patient.

13 (i) Notwithstanding any other provision of this section, if the coverage required
14 under this section conflicts with the bona fide religious beliefs and practices of a religious
15 organization, on request of the religious organization, an entity subject to this section shall
16 exclude the coverage otherwise required under this section in a policy or contract with the
17 religious organization.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
19 policies, contracts, and health benefit plans issued, delivered, or renewed, ~~or in force~~ in the
20 State on or after ~~July 1, 2016~~ January 1, 2017.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.