

# SENATE BILL 1

C3

(6lr0339)

## ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Senator Kagan**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### 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)

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



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

3 **Article – Insurance**

4 15–810.

5 (a) This section applies to:

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

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

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

15 (1) that the patient’s spouse’s sperm be used in the covered treatments or  
16 procedures; or

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

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

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

23 (ii) for which the Administration has determined that in vitro  
24 fertilization procedures are not essential health benefits, as determined under § 31–116 of  
25 this article.

26 (2) An entity subject to this section that provides pregnancy–related  
27 benefits may not exclude benefits for all outpatient expenses arising from in vitro  
28 fertilization procedures performed on a policyholder or subscriber or on the dependent  
29 spouse of a policyholder or subscriber.

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

31 (i) for insurers and nonprofit health service plans, to the same  
32 extent as the benefits provided for other pregnancy–related procedures; and

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

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

4 (1) the patient is the policyholder or subscriber or a covered dependent of  
5 the policyholder or subscriber;

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

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

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

12 1. **A VASECTOMY; OR**

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

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

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

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

21 (ii) the infertility is associated with any of the following medical  
22 conditions:

23 1. endometriosis;

24 2. exposure in utero to diethylstilbestrol, commonly known  
25 as DES;

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

28 4. abnormal male factors, including oligospermia,  
29 contributing to the infertility;

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

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

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

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

14          (g)     A denial of coverage for in vitro fertilization benefits required under this  
15 section by an entity subject to this section constitutes an adverse decision under Subtitle  
16 10A of this title.

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

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

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

28           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
29 1, 2016.