

112TH CONGRESS  
2D SESSION

# S. 3313

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2012

Referred to the Committee on Veterans' Affairs

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## AN ACT

To amend title 38, United States Code, to improve the reproductive assistance provided by the Department of Veterans Affairs to severely wounded, ill, or injured veterans and their spouses, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Women Veterans and  
3 Other Health Care Improvements Act of 2012”.

4 **SEC. 2. CLARIFICATION THAT FERTILITY COUNSELING AND**  
5 **TREATMENT ARE MEDICAL SERVICES WHICH**  
6 **THE SECRETARY MAY FURNISH TO VET-**  
7 **ERANS LIKE OTHER MEDICAL SERVICES.**

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

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

14 **SEC. 3. REPRODUCTIVE TREATMENT AND CARE FOR**  
15 **SPOUSES AND SURROGATES OF VETERANS.**

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

19 **“§ 1788. Reproductive treatment and care for spouses**  
20 **and surrogates of veterans**

21 “(a) IN GENERAL.—The Secretary shall furnish fer-  
22 tility counseling and treatment, including through the use  
23 of assisted reproductive technology, to a spouse or surro-  
24 gate of a severely wounded, ill, or injured veteran who has  
25 an infertility condition incurred or aggravated in line of  
26 duty in the active military, naval, or air service and who

1 is enrolled in the system of annual patient enrollment es-  
2 tablished under section 1705(a) of this title if the spouse  
3 or surrogate and the veteran apply jointly for such coun-  
4 seling and treatment through a process prescribed by the  
5 Secretary.

6       “(b) COORDINATION OF CARE FOR OTHER SPOUSES  
7 AND SURROGATES.—In the case of a spouse or surrogate  
8 of a veteran not described in subsection (a) who is seeking  
9 fertility counseling and treatment, the Secretary may co-  
10 ordinate fertility counseling and treatment for such spouse  
11 or surrogate.

12       “(c) CONSTRUCTION.—Nothing in this section shall  
13 be construed to require the Secretary to find or certify  
14 a surrogate for a veteran or to connect a surrogate with  
15 an injured veteran.”.

16       (b) CLERICAL AMENDMENT.—The table of sections  
17 at the beginning of chapter 17 of such title is amended  
18 by inserting after the item relating to section 1787 the  
19 following new item:

“1788. Reproductive treatment and care for spouses and surrogates of vet-  
erans.”.

20 **SEC. 4. ADOPTION ASSISTANCE.**

21       (a) IN GENERAL.—Subchapter VIII of chapter 17 of  
22 title 38, United States Code, as amended by section 3,  
23 is further amended by adding at the end the following new  
24 section:

1 **“§ 1789. Adoption assistance**

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

5 “(b) COVERED VETERAN.—For purposes of this sec-  
6 tion, a covered veteran is any severely wounded, ill, or in-  
7 jured veteran who—

8 “(1) has an infertility condition incurred or ag-  
9 gravated in line of duty in the active military, naval,  
10 or air service; and

11 “(2) is enrolled in the system of annual patient  
12 enrollment established under section 1705(a) of this  
13 title.

14 “(c) LIMITATION AMOUNT.—For purposes of this  
15 section, the limitation amount is the amount equal to the  
16 lesser of—

17 “(1) the cost the Department would incur if the  
18 Secretary were to provide a covered veteran with one  
19 cycle of in vitro fertilization, as determined by the  
20 Secretary; and

21 “(2) the cost the Department would incur by  
22 paying the expenses of three adoptions by covered  
23 veterans, as determined by the Secretary.”.

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

1 by section 3, is further amended by inserting after the  
2 item relating to section 1788 the following new item:

“1789. Adoption assistance.”.

3 **SEC. 5. REPORT ON PROVISION OF FERTILITY COUNSELING**  
4 **AND TREATMENT.**

5 (a) IN GENERAL.—Each year, the Secretary of Vet-  
6 erans Affairs shall submit to the Committee on Veterans’  
7 Affairs of the Senate and the Committee on Veterans’ Af-  
8 fairs of the House of Representatives a report on the fer-  
9 tility counseling and treatment furnished by the Depart-  
10 ment of Veterans Affairs during the year preceding the  
11 submittal of the report.

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

15 (1) The number of veterans who received fer-  
16 tility counseling or treatment furnished by the De-  
17 partment of Veterans Affairs, disaggregated by era  
18 of military service of such veterans.

19 (2) The number of spouses and surrogates of  
20 veterans who received fertility counseling or treat-  
21 ment furnished by the Department.

22 (3) The cost to the Department of furnishing  
23 fertility counseling and treatment, disaggregated by  
24 cost of services and administration.

1           (4) The average cost to the Department per re-  
2           cipient of such counseling and treatment.

3           (5) In cases in which the Department furnished  
4           fertility treatment through the use of assisted repro-  
5           ductive technology, the average number of cycles per  
6           person furnished.

7           (6) A description of how fertility counseling and  
8           treatment services of the Department are coordi-  
9           nated with similar services of the Department of De-  
10          fense.

11 **SEC. 6. REGULATIONS ON FURNISHING OF FERTILITY**  
12                           **COUNSELING AND TREATMENT AND ADOPT-**  
13                           **ION ASSISTANCE.**

14          (a) **IN GENERAL.**—Not later than 540 days after the  
15          date of the enactment of this Act, the Secretary of Vet-  
16          erans Affairs shall prescribe regulations—

17               (1) on the furnishing of fertility treatment to  
18               veterans using assisted reproductive technology;

19               (2) to carry out section 1788 of title 38, United  
20               States Code, as added by section 3; and

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

23          (b) **LIMITATION.**—Notwithstanding any other provi-  
24          sion of law, during the period beginning on the date of  
25          the enactment of this Act and ending on the date on which

1 the Secretary prescribes regulations under subsection (a),  
2 the Secretary may not furnish—

3 (1) to any veteran, any fertility treatment using  
4 assisted reproductive technology;

5 (2) any fertility counseling or treatment under  
6 section 1788 of title 38, United States Code, as  
7 added by section 3; or

8 (3) any assistance under section 1789 of such  
9 title, as added by section 4.

10 **SEC. 7. COORDINATION WITH DEPARTMENT OF DEFENSE**

11 **ON FURNISHING OF FERTILITY COUNSELING**

12 **AND TREATMENT.**

13 The Secretary of Veterans Affairs shall coordinate  
14 the furnishing of fertility counseling and treatment by the  
15 Department of Veterans Affairs with the furnishing of fer-  
16 tility counseling and treatment by the Department of De-  
17 fense.

18 **SEC. 8. FUNDING.**

19 Amounts for a fiscal year to carry out this Act, sec-  
20 tion 7330B of title 38, United States Code, as added by  
21 section 2(a), section 1787 of such title, as added by section  
22 4(a), and the amendments made by this Act shall be de-  
23 rived from amounts made available for an overseas contin-  
24 gency operation in that fiscal year, if amounts were made

1 available for an overseas contingency operation in that fis-  
2 cal year.

Passed the Senate December 13, 2012.

Attest: NANCY ERICKSON,  
*Secretary.*