

113TH CONGRESS
1ST SESSION

S. 131

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.

IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 3), 2013

Mrs. MURRAY (for herself, Mr. BEGICH, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Women Veterans and
5 Other Health Care Improvements Act of 2013”.

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

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

8 “(H) Fertility counseling and treatment,
 9 including treatment using assisted reproductive
 10 technology.”.

11 **SEC. 3. REPRODUCTIVE TREATMENT AND CARE FOR**
 12 **SPOUSES AND SURROGATES OF VETERANS.**

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

16 **“§ 1788. Reproductive treatment and care for spouses**
 17 **and surrogates of veterans**

18 “(a) IN GENERAL.—The Secretary shall furnish fer-
 19 tility counseling and treatment, including through the use
 20 of assisted reproductive technology, to a spouse or surro-
 21 gate of a severely wounded, ill, or injured veteran who has
 22 an infertility condition incurred or aggravated in line of
 23 duty in the active military, naval, or air service and who
 24 is enrolled in the system of annual patient enrollment es-
 25 tablished under section 1705(a) of this title if the spouse
 26 or surrogate and the veteran apply jointly for such coun-

1 seling and treatment through a process prescribed by the
2 Secretary.

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

9 “(c) CONSTRUCTION.—Nothing in this section shall
10 be construed to require the Secretary—

11 “(1) to find or certify a surrogate for a veteran
12 or to connect a surrogate with a veteran; or

13 “(2) to furnish maternity care to a spouse or
14 surrogate of a veteran.

15 “(d) ASSISTED REPRODUCTIVE TECHNOLOGY DE-
16 FINED.—In this section, the term ‘assisted reproductive
17 technology’ includes in vitro fertilization and other fertility
18 treatments in which both eggs and sperm are handled
19 when clinically appropriate.”.

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

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

1 **SEC. 4. ADOPTION ASSISTANCE FOR SEVERELY WOUNDED**
2 **VETERANS.**

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

7 **“§ 1789. Adoption assistance**

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

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

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

17 “(2) is enrolled in the system of annual patient
18 enrollment established under section 1705(a) of this
19 title.

20 “(c) LIMITATION AMOUNT.—For purposes of this
21 section, the limitation amount is the amount equal to the
22 lesser of—

23 “(1) the cost the Department would incur if the
24 Secretary were to provide a covered veteran with one
25 cycle of in vitro fertilization, as determined by the
26 Secretary; and

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

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 17 of such title, as amended
6 by section 3, is further amended by inserting after the
7 item relating to section 1788 the following new item:

“1789. Adoption assistance.”.

8 **SEC. 5. ANNUAL REPORT ON PROVISION OF FERTILITY**
9 **COUNSELING AND TREATMENT FURNISHED**
10 **BY DEPARTMENT OF VETERANS AFFAIRS.**

11 (a) IN GENERAL.—Not later than one year after the
12 date of the enactment of this Act and not less frequently
13 than once each year thereafter, the Secretary of Veterans
14 Affairs shall submit to the Committee on Veterans’ Affairs
15 of the Senate and the Committee on Veterans’ Affairs of
16 the House of Representatives a report on the fertility
17 counseling and treatment furnished by the Department of
18 Veterans Affairs during the year preceding the submittal
19 of the report.

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

23 (1) The number of veterans who received fer-
24 tility counseling or treatment furnished by the De-

1 partment of Veterans Affairs, disaggregated by era
2 of military service of such veterans.

3 (2) The number of spouses and surrogates of
4 veterans who received fertility counseling or treat-
5 ment furnished by the Department.

6 (3) The cost to the Department of furnishing
7 fertility counseling and treatment, disaggregated by
8 cost of services and administration.

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

11 (5) In cases in which the Department furnished
12 fertility treatment through the use of assisted repro-
13 ductive technology, the average number of cycles per
14 person furnished.

15 (6) A description of how fertility counseling and
16 treatment services of the Department are coordi-
17 nated with similar services of the Department of De-
18 fense.

19 **SEC. 6. REGULATIONS ON FURNISHING OF FERTILITY**
20 **COUNSELING AND TREATMENT AND ADOPT-**
21 **ION ASSISTANCE BY DEPARTMENT OF VET-**
22 **ERANS AFFAIRS.**

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

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

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

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

7 (b) LIMITATION.—Notwithstanding any other provi-
8 sion of law, during the period beginning on the date of
9 the enactment of this Act and ending on the date on which
10 the Secretary prescribes regulations under subsection (a),
11 the Secretary may not furnish—

12 (1) to a veteran any fertility treatment that
13 uses an assisted reproductive technology that the
14 Secretary has not used in the provision of a fertility
15 treatment to a veteran before the date of the enact-
16 ment of this Act;

17 (2) any fertility counseling or treatment under
18 section 1788 of title 38, United States Code, as
19 added by section 3; or

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

22 (c) ASSISTED REPRODUCTIVE TECHNOLOGY DE-
23 FINED.—In this section, the term “assisted reproductive
24 technology” has the meaning given the term in section
25 1788 of such title, as added by section 3.

1 **SEC. 7. COORDINATION BETWEEN DEPARTMENT OF VET-**
 2 **ERANS AFFAIRS AND DEPARTMENT OF DE-**
 3 **FENSE ON FURNISHING OF FERTILITY COUN-**
 4 **SELING AND TREATMENT.**

5 The Secretary of Veterans Affairs and the Secretary
 6 of Defense shall share best practices and facilitate refer-
 7 rals, as they consider appropriate, on the furnishing of fer-
 8 tility counseling and treatment.

9 **SEC. 8. FACILITATION OF REPRODUCTION AND INFER-**
 10 **TILITY RESEARCH.**

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

14 **“§ 7330B. Facilitation of reproduction and infertility**
 15 **research**

16 “(a) FACILITATION OF RESEARCH REQUIRED.—The
 17 Secretary shall facilitate research conducted collabo-
 18 ratively by the Secretary of Defense and the Secretary of
 19 Health and Human Services to improve the ability of the
 20 Department of Veterans Affairs to meet the long-term re-
 21 productive health care needs of veterans who have a geni-
 22 tourinary service-connected disability or a condition that
 23 was incurred or aggravated in line of duty in the active
 24 military, naval, or air service, such as spinal cord injury,
 25 that affects the veterans’ ability to reproduce.

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

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

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

11 (c) REPORT.—Not later than three years after the
 12 date of the enactment of this Act, the Secretary of Vet-
 13 erans Affairs shall submit to Congress a report on the re-
 14 search activities conducted by the Secretary under section
 15 7330B of title 38, United States Code, as added by sub-
 16 section (a).

17 **SEC. 9. REQUIREMENT TO IMPROVE DEPARTMENT OF VET-**
 18 **ERANS AFFAIRS WOMEN VETERANS CONTACT**
 19 **CENTER.**

20 The Secretary of Veterans Affairs shall enhance the
 21 capabilities of the Department of Veterans Affairs women
 22 veterans contact center—

23 (1) to respond to requests by women veterans
 24 for assistance with accessing health care and bene-

1 fits furnished under laws administered by the Sec-
2 retary; and

3 (2) for referral of such veterans to community
4 resources to obtain assistance with services not fur-
5 nished by the Department.

6 **SEC. 10. MODIFICATION OF PILOT PROGRAM ON COUN-**
7 **SELING IN RETREAT SETTINGS FOR WOMEN**
8 **VETERANS NEWLY SEPARATED FROM SERV-**
9 **ICE IN THE ARMED FORCES.**

10 (a) INCREASE IN NUMBER OF LOCATIONS.—Sub-
11 section (c) of section 203 of the Caregivers and Veterans
12 Omnibus Health Services Act of 2010 (Public Law 111–
13 163; 38 U.S.C. 1712A note) is amended by striking “three
14 locations” and inserting “14 locations”.

15 (b) EXTENSION OF DURATION.—Subsection (d) of
16 such section is amended by striking “2-year” and insert-
17 ing “four-year”.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—Sub-
19 section (f) of such section is amended—

20 (1) by striking “Secretary of Veterans Affairs
21 for each” and inserting the following: “Secretary of
22 Veterans Affairs—

23 “(1) for each”;

1 (2) in paragraph (1), as designated by para-
 2 graph (1), by striking the period at the end and in-
 3 serting “; and”; and

4 (3) by adding at the end the following new
 5 paragraph:

6 “(2) for each of fiscal years 2013 and 2014,
 7 \$400,000 to carry out the pilot program.”.

8 **SEC. 11. PROGRAM ON ASSISTANCE FOR CHILD CARE FOR**
 9 **CERTAIN VETERANS.**

10 (a) ASSISTANCE FOR CHILD CARE FOR CERTAIN
 11 VETERANS RECEIVING HEALTH CARE.—

12 (1) IN GENERAL.—Subchapter I of chapter 17
 13 of title 38, United States Code, is amended by add-
 14 ing at the end the following new section:

15 **“§ 1709B. Assistance for child care for certain vet-**
 16 **erans receiving health care**

17 “(a) PROGRAM REQUIRED.—The Secretary shall
 18 carry out a program to provide, subject to subsection (b),
 19 assistance to qualified veterans described in subsection (c)
 20 to obtain child care so that such veterans can receive
 21 health care services described in subsection (c).

22 “(b) LIMITATION ON PERIOD OF PAYMENTS.—As-
 23 sistance may only be provided to a qualified veteran under
 24 this section for receipt of child care during the period that
 25 the qualified veteran—

1 “(1) receives the types of health care services
2 described in subsection (c) at a facility of the De-
3 partment; and

4 “(2) requires travel to and return from such fa-
5 cility for the receipt of such health care services.

6 “(c) QUALIFIED VETERANS.—For purposes of this
7 section, a qualified veteran is a veteran who is—

8 “(1) the primary caretaker of a child or chil-
9 dren; and

10 “(2)(A) receiving from the Department—

11 “(i) regular mental health care services;

12 “(ii) intensive mental health care services;

13 or

14 “(iii) such other intensive health care serv-
15 ices that the Secretary determines that provi-
16 sion of assistance to the veteran to obtain child
17 care would improve access to such health care
18 services by the veteran; or

19 “(B) in need of regular or intensive mental
20 health care services from the Department, and but
21 for lack of child care services, would receive such
22 health care services from the Department.

23 “(d) LOCATIONS.—The Secretary shall carry out the
24 program in no fewer than three Veterans Integrated Serv-

1 ice Networks selected by the Secretary for purposes of the
2 program.

3 “(e) FORMS OF CHILD CARE ASSISTANCE.—(1)
4 Child care assistance under this section may include the
5 following:

6 “(A) Stipends for the payment of child care of-
7 fered by licensed child care centers (either directly
8 or through a voucher program) which shall be, to
9 the extent practicable, modeled after the Depart-
10 ment of Veterans Affairs Child Care Subsidy Pro-
11 gram established pursuant to section 630 of the
12 Treasury and General Government Appropriations
13 Act, 2002 (Public Law 107–67; 115 Stat. 552).

14 “(B) Direct provision of child care at an on-site
15 facility of the Department of Veterans Affairs.

16 “(C) Payments to private child care agencies.

17 “(D) Collaboration with facilities or programs
18 of other Federal departments or agencies.

19 “(E) Such other forms of assistance as the Sec-
20 retary considers appropriate.

21 “(2) In the case that child care assistance under this
22 section is provided as a stipend under paragraph (1)(A),
23 such stipend shall cover the full cost of such child care.”.

24 (2) CONFORMING AMENDMENT.—Section
25 205(e) of the Caregivers and Veterans Omnibus

1 Health Services Act of 2010 (Public Law 111–163;
 2 38 U.S.C. 1710 note) is amended by inserting “but
 3 not after the date of the enactment of the Women
 4 Veterans and Other Health Care Improvements Act
 5 of 2013” before the period at the end.

6 (3) CLERICAL AMENDMENT.—The table of sec-
 7 tions at the beginning of such chapter is amended
 8 by inserting after the item relating to section 1709A
 9 the following new item:

“1709B. Assistance for child care for certain veterans receiving health care.”.

10 (b) ASSISTANCE FOR CHILD CARE FOR CERTAIN
 11 VETERANS RECEIVING READJUSTMENT COUNSELING
 12 AND RELATED MENTAL HEALTH SERVICES.—

13 (1) IN GENERAL.—Subchapter I of chapter 17
 14 of such title, as amended by subsection (a)(1), is
 15 further amended by adding at the end the following
 16 new section:

17 **“§ 1709C. Assistance for child care for certain vet-**
 18 **erans receiving readjustment counseling**
 19 **and related mental health services**

20 “(a) PROGRAM REQUIRED.—The Secretary shall
 21 carry out a program to provide, subject to subsection (b),
 22 assistance to qualified veterans described in subsection (c)
 23 to obtain child care so that such veterans can receive read-
 24 justment counseling and related mental health services.

1 “(b) LIMITATION ON PERIOD OF PAYMENTS.—As-
2 sistance may only be provided to a qualified veteran under
3 this section for receipt of child care during the period that
4 the qualified veteran receives readjustment counseling and
5 related health care services at a Vet Center.

6 “(c) QUALIFIED VETERANS.—For purposes of this
7 section, a qualified veteran is a veteran who is—

8 “(1) the primary caretaker of a child; and

9 “(2)(A) receiving from the Department regular
10 readjustment counseling and related mental health
11 services; or

12 “(B) in need of readjustment counseling and
13 related mental health services from the Department,
14 and but for lack of child care services, would receive
15 such counseling and services from the Department.

16 “(d) LOCATIONS.—The Secretary shall carry out the
17 program under this section in no fewer than three Read-
18 justment Counseling Service Regions selected by the Sec-
19 retary for purposes of the program.

20 “(e) FORMS OF CHILD CARE ASSISTANCE.—(1)
21 Child care assistance under this section may include the
22 following:

23 “(A) Stipends for the payment of child care of-
24 fered by licensed child care centers (either directly
25 or through a voucher program) which shall be, to

1 the extent practicable, modeled after the Depart-
2 ment of Veterans Affairs Child Care Subsidy Pro-
3 gram established pursuant to section 630 of the
4 Treasury and General Government Appropriations
5 Act, 2002 (Public Law 107–67; 115 Stat. 552).

6 “(B) Payments to private child care agencies.

7 “(C) Collaboration with facilities or programs
8 of other Federal departments or agencies.

9 “(D) Such other forms of assistance as the Sec-
10 retary considers appropriate.

11 “(2) In the case that child care assistance under this
12 subsection is provided as a stipend under paragraph
13 (1)(A), such stipend shall cover the full cost of such child
14 care.

15 “(f) VET CENTER DEFINED.—In this section, the
16 term ‘Vet Center’ means a center for readjustment coun-
17 seling and related mental health services for veterans
18 under section 1712A of this title.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-
20 tions at the beginning of such chapter, as amended
21 by subsection (a)(3), is further amended by inserting
22 after the item relating to section 1709B the fol-
23 lowing new item:

“1709C. Assistance for child care for certain veterans receiving readjustment
counseling and related mental health services.”.

1 **SEC. 12. CONTRACTOR USER FEES.**

2 (a) IN GENERAL.—Chapter 3 of title 38, United
3 States Code, is amended by adding at the end the fol-
4 lowing new section:

5 **“§ 323. Contractor user fees**

6 “(a) FEE REQUIREMENT.—Except as provided in
7 subsection (c) and subject to subsection (d), the Secretary
8 shall impose a fee upon each person with whom the Sec-
9 retary engages in a contract for a good or service as a
10 condition of the contract.

11 “(b) FEE AMOUNT.—(1) The amount of a fee im-
12 posed upon a person under subsection (a) with respect to
13 a contract shall be equal to the lesser of—

14 “(A) the amount which is equal to seven per-
15 cent of the total value of the contract; and

16 “(B) the amount which is equal to the total
17 value of the contract multiplied by the applicable
18 percentage for such fiscal year.

19 “(2) The applicable percentage for a fiscal year shall
20 be equal to the percentage by which—

21 “(A) the annual estimate of the total value of
22 contracts for such fiscal year, exceeds

23 “(B) the annual estimate of the total cost of
24 fertility counseling and treatment for such fiscal
25 year.

1 “(3) Before each fiscal year, the Secretary shall es-
2 tablish, for purposes of this section, the annual estimate
3 of the total value of contracts for the next fiscal year,
4 which shall be the Secretary’s estimate of what the aggre-
5 gate value will be of all contracts in which the Secretary
6 will engage in the next fiscal year.

7 “(4) Before each fiscal year, the Secretary shall es-
8 tablish, for purposes of this section, the annual estimate
9 of the total cost of fertility counseling and treatment for
10 the next fiscal year, which shall be the Secretary’s esti-
11 mate of what the total cost to the Department will be in
12 the next fiscal year of—

13 “(A) furnishing fertility counseling and treat-
14 ment, including through the use of assisted repro-
15 ductive technology, to individuals under laws admin-
16 istered by the Secretary in the next fiscal year; and

17 “(B) making payments under section 1789 of
18 this title in the next fiscal year.

19 “(c) WAIVER.—The Secretary may waive the fee re-
20 quired by subsection (a) for a person as the Secretary con-
21 siders appropriate if the person is an individual or a small
22 business concern.

23 “(d) LIMITATION ON COLLECTION.—No fee may be
24 collected under subsection (a) except to the extent that
25 the expenditure of the fee to pay the costs of activities

1 and services for which the fee is imposed is provided for
2 in advance in an appropriations Act.

3 “(e) DEPARTMENT OF VETERANS AFFAIRS FER-
4 TILITY COUNSELING AND TREATMENT FUND.—(1) There
5 is in the Treasury a fund to be known as the Department
6 of Veterans Affairs Fertility Counseling and Treatment
7 Fund.

8 “(2) All amounts received by the Secretary under
9 subsection (a) shall be deposited in the fund.

10 “(3)(A) Subject to the provisions of appropriations
11 Acts, amounts in the fund shall be available, without fiscal
12 year limitation, to the Secretary for the following pur-
13 poses:

14 “(i) To furnish fertility counseling and treat-
15 ment, including through the use of assisted repro-
16 ductive technology, to individuals under laws admin-
17 istered by the Secretary.

18 “(ii) To make payments under section 1789 of
19 this title.

20 “(B) Amounts available under subparagraph (A) may
21 not be used for any purposes other than a purpose set
22 forth in clause (i) or (ii) of that subparagraph.

23 “(4) Amounts received by the Secretary under sub-
24 section (a) shall be treated for the purposes of sections
25 251 and 252 of the Balanced Budget and Emergency Def-

1 icit Control Act of 1985 (2 U.S.C. 901, 902) as offsets
2 to discretionary appropriations (rather than as offsets to
3 direct spending) to the extent that such amounts are made
4 available for expenditure in appropriations Acts for the
5 purposes specified in paragraph (3) of this subsection.

6 “(f) SMALL BUSINESS CONCERN DEFINED.—In this
7 section, the term ‘small business concern’ has the meaning
8 given such term under section 3 of the Small Business
9 Act (15 U.S.C. 632).”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of chapter 3 of such title is amended by
12 adding after the item relating to section 322 the following
13 new item:

“323. Contractor user fees.”.

○