

---

---

# A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that infertility is a  
2 disease of the reproductive system that impairs and  
3 substantially limits an individual's major life activity of  
4 reproduction. In the United States, infertility affects  
5 approximately seven million women and their partners, and  
6 approximately twelve per cent of women of childbearing age have  
7 used an infertility service. Since 1978, in vitro fertilization  
8 has provided a necessary solution for many diagnosed with  
9 infertility who desire to have a child and be a parent.

10           The legislature further finds that since 1987, Hawaii has  
11 required insurance coverage for the treatment of infertility  
12 through in vitro fertilization. The current law only provides  
13 for a one-time benefit; applies only to the insured or insured's  
14 spouse; requires fertilization with the sperm from the patient's  
15 spouse; requires a history of infertility for at least five  
16 years; requires previous attempts at pregnancy through other  
17 applicable infertility treatments for which coverage is



1 available; and applies only to a limited number of medical  
2 conditions associated with infertility.

3       The purpose of this Act is to provide in vitro  
4 fertilization insurance coverage equality for women who are  
5 diagnosed with infertility by requiring non-discriminatory  
6 coverage and ensuring quality of care in the diagnosis and  
7 treatment of infertility. It is the intent of the legislature  
8 to exempt religious institutions and organizations that believe  
9 the covered procedures violate their religious and moral  
10 teachings and beliefs.

11       SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,  
12 is amended by amending subsections (a) and (b) to read as  
13 follows:

14       "(a) All individual and group accident and health or  
15 sickness insurance policies which provide pregnancy-related  
16 benefits shall include in addition to any other benefits for  
17 treating infertility, a [~~one-time-only~~] lifetime benefit of  
18 three in vitro fertilization cycles or a live birth for all  
19 outpatient expenses arising from in vitro fertilization  
20 procedures performed on the insured or the insured's dependent  
21 [~~spouse~~]; provided that:



- 1 (1) Benefits under this section shall be provided to the  
2 same extent as the benefits provided for other  
3 pregnancy-related benefits;
- 4 (2) The patient is the insured or covered dependent of the  
5 insured;
- 6 ~~[(3) The patient's oocytes are fertilized with the  
7 patient's spouse's sperm;~~
- 8 ~~(4) The:]~~
- 9 (3) (A) ~~[Patient and the patient's spouse have]~~ The  
10 patient has a history of infertility of [at least  
11 five years' duration; or] one year if thirty-five  
12 years of age or younger or six months if thirty-  
13 six years of age or older; and
- 14 (B) Infertility is associated with one or more of the  
15 following medical conditions:
- 16 (i) Endometriosis;
- 17 (ii) ~~[Exposure in utero to diethylstilbestrol,~~  
18 ~~commonly known as DES;]~~ Uterine factor;
- 19 (iii) ~~[Blockage of, or surgical removal of, one or~~  
20 ~~both fallopian tubes (lateral or bilateral~~  
21 ~~salpingectomy); or] Tubal factor;~~



1 (iv) [~~Abnormal male factors contributing to the~~  
2 ~~infertility;~~] Male factor;

3 (v) Ovulatory dysfunction; or

4 (vi) Diminished ovarian reserve;

5 [+5] (4) The patient has been unable to attain a  
6 successful pregnancy through other applicable  
7 infertility treatments for which coverage [~~is~~] shall  
8 be available under the insurance contract[~~+~~], unless  
9 the individual's physician determines that those  
10 treatments are likely to be unsuccessful; and

11 [+6] (5) The in vitro fertilization procedures are  
12 performed at medical facilities that conform to the  
13 American College of Obstetricians and Gynecologists  
14 guidelines for in vitro fertilization clinics or to  
15 the American Society for Reproductive Medicine minimal  
16 standards for programs of in vitro fertilization.

17 (b) For the purposes of this section, the term [~~"spouse"~~  
18 ~~means a person who is lawfully married to the patient under the~~  
19 ~~laws of the State.~~] "infertility" means a disease, defined by  
20 the failure to achieve a successful pregnancy after twelve  
21 months or more of appropriate, timed unprotected intercourse or  
22 therapeutic donor insemination for women thirty-five years of



1 age or younger or six months for women over thirty-five years of  
2 age."

3 SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) All individual and group hospital or medical service  
6 plan contracts which provide pregnancy-related benefits shall  
7 include in addition to any other benefits for treating  
8 infertility, a [~~one-time only~~] lifetime benefit of three in  
9 vitro fertilization cycles or a live birth for all outpatient  
10 expenses arising from in vitro fertilization procedures  
11 performed on the subscriber or member or the subscriber's or  
12 member's dependent [~~spouse~~]; provided that:

13 (1) Benefits under this section shall be provided to the  
14 same extent as the benefits provided for other  
15 pregnancy-related benefits;

16 (2) The patient is a subscriber or member or covered  
17 dependent of the subscriber or member;

18 [~~(3) The patient's oocytes are fertilized with the~~  
19 ~~patient's spouse's sperm;~~

20 ~~(4) The:]~~

21 (3) (A) [~~Patient and the patient's spouse have~~] The  
22 patient has a history of infertility of [at least



1 ~~five years' duration; or] one year if thirty-five~~  
2 ~~years of age or younger or six months if thirty-~~  
3 ~~six years of age or older; and~~

4 (B) Infertility is associated with one or more of the  
5 following medical conditions:

6 (i) Endometriosis;

7 (ii) [~~Exposure in utero to diethylstilbestrol,~~  
8 ~~commonly known as DES;~~] Uterine factor;

9 (iii) [~~Blockage of, or surgical removal of, one or~~  
10 ~~both fallopian tubes (lateral or bilateral~~  
11 ~~salpingectomy); or] Tubal factor;~~

12 (iv) [~~Abnormal male factors contributing to the~~  
13 ~~infertility;~~] Male factor;

14 (v) Ovulatory dysfunction; or

15 (vi) Diminished ovarian reserve;

16 ~~[-5-]~~ (4) The patient has been unable to attain a  
17 successful pregnancy through other applicable  
18 infertility treatments for which coverage [~~is~~] shall  
19 be available under the contract[+], unless the  
20 individual's physician determines that those  
21 treatments are likely to be unsuccessful; and



1       ~~[(6)]~~ (5) The in vitro fertilization procedures are  
2           performed at medical facilities that conform to the  
3           American College of Obstetricians and Gynecologists  
4           guidelines for in vitro fertilization clinics or to  
5           the American Society for Reproductive Medicine minimal  
6           standards for programs of in vitro fertilization.

7           (b) For the purposes of this section, the term ["~~spouse~~"  
8       ~~means a person who is lawfully married to the patient under the~~  
9       ~~laws of the State.~~] "infertility" means a disease, defined by  
10       the failure to achieve a successful pregnancy after twelve  
11       months or more of appropriate, timed unprotected intercourse or  
12       therapeutic donor insemination for women thirty-five years or  
13       younger or six months for women over thirty-five years."

14       SECTION 4. Statutory material to be repealed is bracketed  
15       and stricken. New statutory material is underscored.

16       SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

In Vitro Fertilization Procedure Coverage; Infertility  
Disability

**Description:**

Provides insurance coverage equality for women who are diagnosed with infertility by making available to them expanded treatment options, ensuring adequate and affordable health care services.  
(HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

