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# 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 reproductive  
2 technologies, such as in vitro fertilization, are extremely  
3 important to many who desire to have children. The State's  
4 mandate that insurance plans provide a one-time benefit for  
5 costs associated with in vitro fertilization procedures, though  
6 admirable, excludes same-sex couples, unmarried women, and  
7 opposite-sex couples for whom male infertility is the relevant  
8 factor. While some insurers independently offer policies that  
9 cover female couples or women without male partners, these  
10 policies are not guaranteed by law and not all cover single  
11 women. Finally, opposite-sex couples for whom male infertility  
12 is the relevant factor are excluded from coverage through the  
13 existing statutory requirement that covered treatment involves  
14 sperm from the male spouse.

15           The legislature further finds that the current unequal  
16 treatment of individuals seeking medical fertility assistance  
17 constitutes discrimination on the basis of sex, sexual



1 orientation, and marital status. In vitro fertilization  
2 procedures are expensive, costing \$12,000 to \$15,000 per cycle,  
3 approximately half the average annual household disposable  
4 income in the United States. Same-sex couples, unmarried women,  
5 and opposite-sex couples affected by male infertility must  
6 unreasonably bear the full cost of the procedures while married  
7 opposite-sex couples for whom female infertility is the relevant  
8 factor do not bear the same burden.

9 The purpose of this Act is to ensure equal access to in  
10 vitro fertilization for all couples, including same-sex couples,  
11 and for women regardless of marital status.

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

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



1        (1) Benefits under this section shall be gender neutral,  
2        meaning any benefit available to married opposite-sex  
3        couples shall also be available for same-sex couples,  
4        and for women regardless of marital status;

5        [~~(1)~~] (2) Benefits under this section shall be provided to  
6        the same extent as the benefits provided for other  
7        pregnancy-related benefits;

8        [~~(2)~~] ~~The patient is the insured or covered dependent of the~~  
9        ~~insured;~~

10        (3) The [~~patient's~~] oocytes [~~are fertilized with the~~  
11        ~~patient's spouse's sperm;~~] or sperm of the insured or  
12        of the insured's dependent spouse are used in the in  
13        vitro fertilization procedures;

14        (4) The:

15        (A) [~~Patient and the patient's spouse have~~] Insured  
16        or the insured's dependent spouse has a history  
17        of infertility of at least [~~five years' duration,~~  
18        ~~or]~~ two years;

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

21            (i) Endometriosis;



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1 (ii) Exposure in utero to diethylstilbestrol,  
2 commonly known as DES;

3 (iii) Blockage of, or surgical removal of, one or  
4 both fallopian tubes (lateral or bilateral  
5 salpingectomy); or

6 (iv) Abnormal male factors contributing to ~~[the]~~  
7 infertility; or

8 (C) Insured and insured's dependent spouse are of the  
9 same sex;

10 (5) The ~~[patient]~~ insured or the insured's dependent  
11 spouse has been unable to attain a successful  
12 pregnancy through other applicable infertility  
13 treatments ~~[for which coverage is available]~~ covered  
14 under the insurance contract; and

15 (6) The in vitro fertilization procedures are performed at  
16 medical facilities that conform to the American  
17 College of Obstetricians and ~~[Gynecologists]~~  
18 Gynecologists' guidelines for in vitro fertilization  
19 clinics or ~~[to]~~ the American Society for Reproductive  
20 ~~[Medicine minimal]~~ Medicine's minimum standards for  
21 ~~[programs of]~~ in vitro fertilization~~[-]~~ programs.



1 The benefits available under this subsection shall be covered  
 2 expenses directly related to in vitro fertilization services and  
 3 shall not include other pregnancy-related or other post-in vitro  
 4 fertilization outpatient services."

5 SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is  
 6 amended by amending subsection (a) to read as follows:

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

14 (1) Benefits under this section shall be gender neutral,  
 15 meaning any benefit available to married opposite-sex  
 16 couples shall also be available for same-sex couples,  
 17 and for women regardless of marital status;

18 [~~(1)~~] (2) Benefits under this section shall be provided to  
 19 the same extent as the benefits provided for other  
 20 pregnancy-related benefits;



- 1       ~~[(2) The patient is a subscriber or member or covered~~  
2       ~~dependent of the subscriber or member,]~~
- 3       (3) The ~~[patient's]~~ oocytes ~~[are fertilized with the~~  
4       ~~patient's spouse's sperm,]~~ sperm of the subscriber  
5       or member or of the subscriber's or member's dependent  
6       spouse are used in the in vitro fertilization  
7       procedures;
- 8       (4) The:
- 9       (A) ~~[Patient and the patient's spouse have]~~  
10       Subscriber or member or the subscriber's or  
11       member's dependent spouse has a history of  
12       infertility of at least ~~[five years' duration,~~  
13       ~~or]~~ two years;
- 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;
- 19       (iii) Blockage of, or surgical removal of, one or  
20       both fallopian tubes (lateral or bilateral  
21       salpingectomy); or



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

3 (C) Subscriber or member and the subscriber's or  
4 member's dependent spouse are of the same sex;

5 (5) The ~~[patient]~~ subscriber or member or the subscriber's  
6 or member's dependent spouse has been unable to attain  
7 a successful pregnancy through other applicable  
8 infertility treatments ~~[for which coverage is~~  
9 ~~available]~~ covered under the contract; and

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

17 The benefits available under this subsection shall be covered  
18 expenses directly related to in vitro fertilization services and  
19 shall not include other pregnancy-related or other post-in vitro  
20 fertilization outpatient services."



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1           SECTION 4. The coverage for in vitro fertilization  
2 services required under sections 2 and 3 of this Act is not  
3 intended to apply to the medicaid program.

4           SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 6. This Act shall take effect on July 1, 2023.

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INTRODUCED BY:           *Kal Rhoad*          





# S.B. NO. 993

**Report Title:**

In Vitro Fertilization; Mandatory Insurance Coverage; Same-Sex Couples; Unmarried Women; Male Infertility; Parity

**Description:**

Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and opposite-sex couples for whom male infertility is the relevant factor. Requires the insured or the insured's dependent spouse to have a history of infertility of at least two years rather than five years.

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

