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**SENATE BILL 5647**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Robinson, Dhingra, Frockt, Hunt, Keiser, Lias, Lovick, Pedersen, Randall, Saldaña, Stanford, Van De Wege, and C. Wilson

Prefiled 01/04/22. Read first time 01/10/22. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to fertility services; adding a new section to  
2 chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; and  
3 creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) According to the federal centers for disease control and  
7 prevention, over 12 percent of women of reproductive age in the  
8 United States have difficulty becoming pregnant or staying pregnant;

9 (b) Infertility is evenly divided between men and women and  
10 approximately one-third of cases involve both partners being  
11 diagnosed or are unexplained;

12 (c) Increasing accessibility for infertility treatment will  
13 expand the state's health services and improve the short and long-  
14 term health outcomes for the resulting children and mothers, which  
15 may also reduce health care costs by reducing adverse outcomes; and

16 (d) Insurance coverage reduces disparities in access to care for  
17 racial and ethnic minorities as well as for LGBTQ persons.

18 (2) The legislature, therefore, intends to provide coverage for  
19 the diagnosis of and treatment for infertility, as well as for  
20 standard fertility preservation services.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 48.43

2    RCW to read as follows:

3        (1) Health plans issued or renewed on or after January 1, 2024,  
4    must include coverage for the diagnosis of infertility, treatment for  
5    infertility, and standard fertility preservation services. The  
6    benefits must be provided to enrollees, including covered spouses and  
7    covered nonspouse dependents, to the same extent as other pregnancy-  
8    related benefits. Coverage must provide for four completed oocyte  
9    retrievals with unlimited embryo transfers in accordance with the  
10   guidelines of the American society for reproductive medicine, using  
11   single embryo transfer when recommended and medically appropriate.

12        (2) Health plans issued or renewed on or after January 1, 2024,  
13   may not include:

14        (a) Any exclusions, limitations, or other restrictions on  
15   coverage of fertility medications that are different from those  
16   imposed on other prescription medications;

17        (b) Any exclusions, limitations, or other restrictions on  
18   coverage of any fertility services based on a covered individual's  
19   participation in fertility services provided by or to a third party;  
20   or

21        (c) Any deductibles, copayments, coinsurance, benefit maximums,  
22   waiting periods, or any other limitations on coverage for the  
23   diagnosis of infertility, treatment of infertility, and standard  
24   fertility preservation services, except as provided in this section,  
25   that are different from those imposed upon benefits for services not  
26   related to infertility.

27        (3) If at any time the state is required by the secretary of the  
28   United States department of health and human services, or its  
29   successor agency, to defray the cost of coverage for the diagnosis of  
30   infertility, treatment for infertility, and standard fertility  
31   preservation services for individual or small group health plans as  
32   required under subsection (1) of this section, the requirements of  
33   this section are inoperative as applied to individual and small group  
34   health plans and the state may not assume any obligation for the cost  
35   of coverage for the diagnosis of infertility, treatment for  
36   infertility, and standard fertility preservation services for  
37   individual and small group health plans.

38        (4) For the purposes of this section:

39        (a) "Diagnosis of and treatment for infertility" means the  
40   recommended procedures and medications from the direction of a

1 licensed physician or osteopathic physician that are consistent with  
2 established, published, or approved medical practices or professional  
3 guidelines from the American college of obstetricians and  
4 gynecologists or the American society for reproductive medicine.

5 (b) "Infertility" means a disease, condition, or status  
6 characterized by:

7 (i) The failure to establish a pregnancy or to carry a pregnancy  
8 to live birth after regular, unprotected sexual intercourse;

9 (ii) A person's inability to reproduce either as a single  
10 individual or with the person's partner without medical intervention;

11 (iii) A licensed physician's or osteopathic physician's findings  
12 based on a patient's medical, sexual, and reproductive history, age,  
13 physical findings, or diagnostic testing; or

14 (iv) Disability as an impairment of function.

15 (c) "Regular, unprotected sexual intercourse" means no more than  
16 12 months of unprotected sexual intercourse for a woman under the age  
17 of 35 or no more than six months of unprotected sexual intercourse  
18 for a woman 35 years of age or older. Pregnancy resulting in  
19 miscarriage does not restart the 12-month or six-month time period to  
20 qualify as having infertility.

21 (d) "Standard fertility preservation services" means procedures  
22 that are consistent with the established medical practices or  
23 professional guidelines published by the American society of  
24 reproductive medicine or the American society of clinical oncology  
25 for a person who has a medical condition or is expected to undergo  
26 medication therapy, surgery, radiation, chemotherapy, or other  
27 medical treatment that is recognized by medical professionals to  
28 cause a risk of impairment to fertility.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05  
30 RCW to read as follows:

31 (1) Health plans offered to employees and their covered  
32 dependents under this chapter issued or renewed on or after January  
33 1, 2024, must include coverage for the diagnosis of infertility,  
34 treatment for infertility, and standard fertility preservation  
35 services. The benefits must be provided to enrollees, including  
36 covered spouses and covered nonspouse dependents, to the same extent  
37 as other pregnancy-related benefits. Coverage must provide for four  
38 completed oocyte retrievals with unlimited embryo transfers in  
39 accordance with the guidelines of the American society for

1 reproductive medicine, using single embryo transfer when recommended  
2 and medically appropriate.

3 (2) Health plans offered to employees and their covered  
4 dependents under this chapter issued or renewed on or after January  
5 1, 2024, may not include:

6 (a) Any exclusions, limitations, or other restrictions on  
7 coverage of fertility medications that are different from those  
8 imposed on other prescription medications;

9 (b) Any exclusions, limitations, or other restrictions on  
10 coverage of any fertility services based on a covered individual's  
11 participation in fertility services provided by or to a third party;  
12 or

13 (c) Any deductibles, copayments, coinsurance, benefit maximums,  
14 waiting periods, or any other limitations on coverage for the  
15 diagnosis of infertility, treatment of infertility, and standard  
16 fertility preservation services, except as provided in this section,  
17 that are different from those imposed upon benefits for services not  
18 related to infertility.

19 (3) For the purposes of this section:

20 (a) "Diagnosis of and treatment for infertility" means the  
21 recommended procedures and medications from the direction of a  
22 licensed physician or osteopathic physician that are consistent with  
23 established, published, or approved medical practices or professional  
24 guidelines from the American college of obstetricians and  
25 gynecologists or the American society for reproductive medicine.

26 (b) "Infertility" means a disease, condition, or status  
27 characterized by:

28 (i) The failure to establish a pregnancy or to carry a pregnancy  
29 to live birth after regular, unprotected sexual intercourse;

30 (ii) A person's inability to reproduce either as a single  
31 individual or with the person's partner without medical intervention;

32 (iii) A licensed physician's or osteopathic physician's findings  
33 based on a patient's medical, sexual, and reproductive history, age,  
34 physical findings, or diagnostic testing; or

35 (iv) Disability as an impairment of function.

36 (c) "Regular, unprotected sexual intercourse" means no more than  
37 12 months of unprotected sexual intercourse for a woman under the age  
38 of 35 or no more than six months of unprotected sexual intercourse  
39 for a woman 35 years of age or older. Pregnancy resulting in

1 miscarriage does not restart the 12-month or six-month time period to  
2 qualify as having infertility.

3 (d) "Standard fertility preservation services" means procedures  
4 that are consistent with the established medical practices or  
5 professional guidelines published by the American society of  
6 reproductive medicine or the American society of clinical oncology  
7 for a person who has a medical condition or is expected to undergo  
8 medication therapy, surgery, radiation, chemotherapy, or other  
9 medical treatment that is recognized by medical professionals to  
10 cause a risk of impairment to fertility.

11 NEW SECTION. **Sec. 4.** This act may be known and cited as the  
12 Washington state building families act.

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