

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act improving access to infertility treatment.

PETITION OF:

NAME:

Cynthia Stone Creem

DISTRICT/ADDRESS:

Norfolk and Middlesex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act improving access to infertility treatment.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 47H of chapter 175, as appearing in the 2022 Official Edition, is
2 hereby amended by striking out the final two sentences and inserting in place thereof the
3 following:-

4 For purposes of this section, “infertility” means a condition or status characterized by any
5 of the following:

6 (1) A licensed physician’s findings, based on: a patient’s medical, sexual, and
7 reproductive history; age; physical findings; diagnostic testing; or any combination of those
8 factors. This definition shall not prevent testing and diagnosis of infertility to establish infertility
9 with or without appropriate exposure to gametes, per the patient’s provider.

10 (2) The need for medical intervention, including, but not limited to, the use of donor
11 gametes, donor embryos, gestational carrier to achieve a live birth either as an individual or with
12 a partner.

13 (3) The failure to establish a pregnancy or to carry a pregnancy to live birth after
14 unprotected sexual intercourse. For purposes of this section, “unprotected sexual intercourse”
15 means no more than 12 months of unprotected sexual intercourse for a person under 35 years of
16 age or no more than 6 months of unprotected sexual intercourse for a person 35 years of age or
17 older. Pregnancy that does not result in a live birth will not restart the 12-month or 6-month time
18 period to qualify as having infertility.

19 (4) An impairment of reproductive ability due to factors, including, but not limited to,
20 medical condition, male factor, female factor, combined or unexplained reproductive challenges,
21 as well as genetic disorders or iatrogenic infertility.

22 Coverage for medically necessary expenses of diagnosis and treatment of infertility shall
23 include, but shall not be limited to: (i) a minimum of six oocyte retrievals and unlimited fresh
24 and frozen embryo transfers, using single embryo transfer when recommended by patient’s
25 physician and medically appropriate; (ii) embryo transfer; (iii) artificial insemination; (iv)
26 surgical sperm extraction procedures; (v) third-party reproduction including in vitro fertilization
27 with donor egg, sperm, or embryo or gestational carrier; (vi) procedures necessary to screen or
28 diagnose a fertilized egg before transfer, including, but not limited to, preimplantation genetic
29 testing for aneuploidy, preimplantation genetic testing for chromosome structural
30 rearrangements, and preimplantation genetic testing for monogenic or single gene disorders.

31 In administering coverage for medically necessary expenses of diagnosis and treatment of
32 infertility, a carrier or participating provider, as those terms are defined in section 1 of chapter
33 176O, shall not:

34 (1) impose conditions for eligibility beyond what is provided in the law;

35 (2) exclude, limit, or otherwise restrict coverage or processing of benefits for fertility
36 medications that are different from those imposed on other prescription medications;

37 (3) exclude or deny coverage of any fertility services, including medication, based on an
38 individual's participation in fertility services provided by or to any third party. For purposes of
39 this paragraph, "third party" includes: (i) any fresh or cryopreserved oocyte, sperm, or embryo,
40 regardless of the initial coverage source of the donor or the genetic material; and (ii) a gestational
41 carrier that enables an intended parent, member, and/or partner of a member to become a parent.

42 (4) exclude services based on the quantity of the patient's existing cryopreserved oocyte,
43 sperm, or embryos; the provider's discretion will determine if cryopreserved oocyte, sperm, or
44 embryo provides a reasonable chance of success and whether additional fertility services are
45 required;

46 (5) implement any deductible, copayment, coinsurance, benefit maximum, waiting
47 period, or other limitation on coverage that is different from those imposed upon benefits for
48 services not related to infertility;

49 (6) impose limitations on coverage based solely on arbitrary, non-medically based factors
50 including, but not limited to, number of attempts, dollar amounts, or age; or

51 (7) provide different benefits to, or impose different requirements for different groups,
52 based on diagnosis.

53 Limitations on coverage coverage for medically necessary expenses of diagnosis and
54 treatment of infertility shall be based on clinical guidelines and the patient's medical history.

55 Clinical guidelines shall be maintained in written form and available to any enrollee. Standards

56 or guidelines developed by the American Society for Reproductive Medicine, the American
57 College of Obstetrics and Gynecology, the Society for Assisted Reproductive Technology, or
58 similar relevant medical societies may serve as a basis for such clinical guidelines. Making,
59 issuing, circulating, or causing to be made, issued or circulated, any clinical guidelines that are
60 based upon data that are not reasonably current or that do not cite with specificity any references
61 relied upon shall constitute an unfair and deceptive act and practice pursuant to section 2 of
62 chapter 93A.

63 Consistent with Massachusetts anti-discrimination law, coverage for medically necessary
64 expenses of diagnosis and treatment of infertility shall be provided without discrimination based
65 on age, ancestry, color, disability, domestic partner status, gender, gender expression, gender
66 identity, genetic information, marital status, national origin, race, religion, sex, or sexual
67 orientation.

68 This section shall not be construed to deny or restrict any existing right or benefit to
69 coverage and treatment of infertility or fertility services under an existing law, plan, or policy.
70 This section shall not be construed to interfere with a medical provider's, physician's, or
71 surgeon's clinical judgment.

72 SECTION 2. Section 8K of chapter 176A, as appearing in the 2022 Official Edition, is
73 hereby amended by striking out the final two sentences and inserting in place thereof the
74 following:-

75 For purposes of this section, "infertility" means a condition or status characterized by any
76 of the following:

77 (1) A licensed physician’s findings, based on: a patient’s medical, sexual, and
78 reproductive history; age; physical findings; diagnostic testing; or any combination of those
79 factors. This definition shall not prevent testing and diagnosis of infertility to establish infertility
80 with or without appropriate exposure to gametes, per the patient’s provider.

81 (2) The need for medical intervention, including, but not limited to, the use of donor
82 gametes, donor embryos, gestational carrier to achieve a live birth either as an individual or with
83 a partner.

84 (3) The failure to establish a pregnancy or to carry a pregnancy to live birth after
85 unprotected sexual intercourse. For purposes of this section, “unprotected sexual intercourse”
86 means no more than 12 months of unprotected sexual intercourse for a person under 35 years of
87 age or no more than 6 months of unprotected sexual intercourse for a person 35 years of age or
88 older. Pregnancy that does not result in a live birth will not restart the 12-month or 6-month time
89 period to qualify as having infertility.

90 (4) An impairment of reproductive ability due to factors, including, but not limited to,
91 medical condition, male factor, female factor, combined or unexplained reproductive challenges,
92 as well as genetic disorders or iatrogenic infertility.

93 Coverage for medically necessary expenses of diagnosis and treatment of infertility shall
94 include, but shall not be limited to: (i) a minimum of six oocyte retrievals and unlimited fresh
95 and frozen embryo transfers, using single embryo transfer when recommended by patient’s
96 physician and medically appropriate; (ii) embryo transfer; (iii) artificial insemination; (iv)
97 surgical sperm extraction procedures; (v) third-party reproduction including in vitro fertilization
98 with donor egg, sperm, or embryo or gestational carrier; (vi) procedures necessary to screen or

99 diagnose a fertilized egg before transfer, including, but not limited to, preimplantation genetic
100 testing for aneuploidy, preimplantation genetic testing for chromosome structural
101 rearrangements, and preimplantation genetic testing for monogenic or single gene disorders.

102 In administering coverage for medically necessary expenses of diagnosis and treatment of
103 infertility, a carrier or participating provider, as those terms are defined in section 1 of chapter
104 176O, shall not:

105 (1) impose conditions for eligibility beyond what is provided in the law;

106 (2) exclude, limit, or otherwise restrict coverage or processing of benefits for fertility
107 medications that are different from those imposed on other prescription medications;

108 (3) exclude or deny coverage of any fertility services, including medication, based on an
109 individual's participation in fertility services provided by or to any third party. For purposes of
110 this paragraph, "third party" includes: (i) any fresh or cryopreserved oocyte, sperm, or embryo,
111 regardless of the initial coverage source of the donor or the genetic material; and (ii) a gestational
112 carrier that enables an intended parent, member, and/or partner of a member to become a parent.

113 (4) exclude services based on the quantity of the patient's existing cryopreserved oocyte,
114 sperm, or embryos; the provider's discretion will determine if cryopreserved oocyte, sperm, or
115 embryo provides a reasonable chance of success and whether additional fertility services are
116 required;

117 (5) implement any deductible, copayment, coinsurance, benefit maximum, waiting
118 period, or other limitation on coverage that is different from those imposed upon benefits for
119 services not related to infertility;

120 (6) impose limitations on coverage based solely on arbitrary, non-medically based factors
121 including, but not limited to, number of attempts, dollar amounts, or age; or

122 (7) provide different benefits to, or impose different requirements for different groups,
123 based on diagnosis.

124 Limitations on coverage coverage for medically necessary expenses of diagnosis and
125 treatment of infertility shall be based on clinical guidelines and the patient's medical history.
126 Clinical guidelines shall be maintained in written form and available to any enrollee. Standards
127 or guidelines developed by the American Society for Reproductive Medicine, the American
128 College of Obstetrics and Gynecology, the Society for Assisted Reproductive Technology, or
129 similar relevant medical societies may serve as a basis for such clinical guidelines. Making,
130 issuing, circulating, or causing to be made, issued or circulated, any clinical guidelines that are
131 based upon data that are not reasonably current or that do not cite with specificity any references
132 relied upon shall constitute an unfair and deceptive act and practice pursuant to section 2 of
133 chapter 93A.

134 Consistent with Massachusetts anti-discrimination law, coverage for medically necessary
135 expenses of diagnosis and treatment of infertility shall be provided without discrimination based
136 on age, ancestry, color, disability, domestic partner status, gender, gender expression, gender
137 identity, genetic information, marital status, national origin, race, religion, sex, or sexual
138 orientation.

139 This section shall not be construed to deny or restrict any existing right or benefit to
140 coverage and treatment of infertility or fertility services under an existing law, plan, or policy.

141 This section shall not be construed to interfere with a medical provider's, physician's, or
142 surgeon's clinical judgment.

143 SECTION 3. Section 4J of chapter 176B, as appearing in the 2022 Official Edition, is
144 hereby amended by striking out the final two sentences and inserting in place thereof the
145 following:-

146 For purposes of this section, "infertility" means a condition or status characterized by any
147 of the following:

148 (1) A licensed physician's findings, based on: a patient's medical, sexual, and
149 reproductive history; age; physical findings; diagnostic testing; or any combination of those
150 factors. This definition shall not prevent testing and diagnosis of infertility to establish infertility
151 with or without appropriate exposure to gametes, per the patient's provider.

152 (2) The need for medical intervention, including, but not limited to, the use of donor
153 gametes, donor embryos, gestational carrier to achieve a live birth either as an individual or with
154 a partner.

155 (3) The failure to establish a pregnancy or to carry a pregnancy to live birth after
156 unprotected sexual intercourse. For purposes of this section, "unprotected sexual intercourse"
157 means no more than 12 months of unprotected sexual intercourse for a person under 35 years of
158 age or no more than 6 months of unprotected sexual intercourse for a person 35 years of age or
159 older. Pregnancy that does not result in a live birth will not restart the 12-month or 6-month time
160 period to qualify as having infertility.

161 (4) An impairment of reproductive ability due to factors, including, but not limited to,
162 medical condition, male factor, female factor, combined or unexplained reproductive challenges,
163 as well as genetic disorders or iatrogenic infertility.

164 Coverage for medically necessary expenses of diagnosis and treatment of infertility shall
165 include, but shall not be limited to: (i) a minimum of six oocyte retrievals and unlimited fresh
166 and frozen embryo transfers, using single embryo transfer when recommended by patient's
167 physician and medically appropriate; (ii) embryo transfer; (iii) artificial insemination; (iv)
168 surgical sperm extraction procedures; (v) third-party reproduction including in vitro fertilization
169 with donor egg, sperm, or embryo or gestational carrier; (vi) procedures necessary to screen or
170 diagnose a fertilized egg before transfer, including, but not limited to, preimplantation genetic
171 testing for aneuploidy, preimplantation genetic testing for chromosome structural
172 rearrangements, and preimplantation genetic testing for monogenic or single gene disorders.

173 In administering coverage for medically necessary expenses of diagnosis and treatment of
174 infertility, a carrier or participating provider, as those terms are defined in section 1 of chapter
175 176O, shall not:

176 (1) impose conditions for eligibility beyond what is provided in the law;

177 (2) exclude, limit, or otherwise restrict coverage or processing of benefits for fertility
178 medications that are different from those imposed on other prescription medications;

179 (3) exclude or deny coverage of any fertility services, including medication, based on an
180 individual's participation in fertility services provided by or to any third party. For purposes of
181 this paragraph, "third party" includes: (i) any fresh or cryopreserved oocyte, sperm, or embryo,

182 regardless of the initial coverage source of the donor or the genetic material; and (ii) a gestational
183 carrier that enables an intended parent, member, and/or partner of a member to become a parent.

184 (4) exclude services based on the quantity of the patient's existing cryopreserved oocyte,
185 sperm, or embryos; the provider's discretion will determine if cryopreserved oocyte, sperm, or
186 embryo provides a reasonable chance of success and whether additional fertility services are
187 required;

188 (5) implement any deductible, copayment, coinsurance, benefit maximum, waiting
189 period, or other limitation on coverage that is different from those imposed upon benefits for
190 services not related to infertility;

191 (6) impose limitations on coverage based solely on arbitrary, non-medically based factors
192 including, but not limited to, number of attempts, dollar amounts, or age; or

193 (7) provide different benefits to, or impose different requirements for different groups,
194 based on diagnosis.

195 Limitations on coverage coverage for medically necessary expenses of diagnosis and
196 treatment of infertility shall be based on clinical guidelines and the patient's medical history.
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198 or guidelines developed by the American Society for Reproductive Medicine, the American
199 College of Obstetrics and Gynecology, the Society for Assisted Reproductive Technology, or
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204 chapter 93A.

205 Consistent with Massachusetts anti-discrimination law, coverage for medically necessary
206 expenses of diagnosis and treatment of infertility shall be provided without discrimination based
207 on age, ancestry, color, disability, domestic partner status, gender, gender expression, gender
208 identity, genetic information, marital status, national origin, race, religion, sex, or sexual
209 orientation.

210 This section shall not be construed to deny or restrict any existing right or benefit to
211 coverage and treatment of infertility or fertility services under an existing law, plan, or policy.

212 This section shall not be construed to interfere with a medical provider's, physician's, or
213 surgeon's clinical judgment.