

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/CS/SB 924

INTRODUCER: Banking and Insurance Committee, Governmental Oversight and Accountability Committee and Senators Calatayud and Sharief

SUBJECT: Coverage for Fertility Preservation Services

DATE: April 2, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 924 requires all contracted state group health insurance plans issued on or after January 1, 2026, to provide coverage, consistent with the laws of this state, for standard fertility preservation services to individuals undergoing cancer treatments that may result in iatrogenic infertility. The bill provides that standard fertility preservation services include the costs associated with the retrieval and preservation of sperm and oocyte materials that are consistent with nationally recognized clinical practice guidelines and definitions.

The bill prohibits a state group health insurance plan from imposing any preauthorization requirements.

The bill will have a negative impact on state revenues and expenditures. See Section V, Fiscal Impact on Public Sector.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Medical Treatments and Conditions Effecting Fertility

Infertility can be caused by many different things.¹ Numerous medical treatments may affect fertility or cause infertility in men and women; additionally, some individuals face potential infertility due to different medical conditions.

Men and women's fertility can be negatively impacted by necessary surgeries that cause damage or scarring, or that remove certain necessary reproductive organs or tissues. Medications have also been linked to infertility, such as those used to treat certain anti-inflammatory and autoimmune diseases, some steroids, and other various prescription drugs.²

Cancer Specific

Infertility is often a side effect of life-saving cancer treatments like chemotherapy and radiation. Moreover, surgeries necessary to remove cancerous tissues and other cancer treating medications, such as hormone therapies, can affect a patient's fertility. The effects can be temporary or permanent. The likelihood that cancer treatment will harm fertility depends on the type and stage of cancer, the type of cancer treatment, and age at the time of treatment.³

Fertility Preservation Services

Fertility preservation is the practice of proactively helping patients to preserve their chances for future reproduction.⁴ Fertility preservation saves and protects embryos, eggs, sperm, and reproductive tissues to enable an individual to have a child sometime in the future. It is an option for adults and even some children of both sexes. Fertility preservation is common in people whose fertility is compromised due to health conditions or diseases (medically indicated preservation) or when someone wishes to delay having children for personal reasons (elective preservation).⁵ Medically indicative preservation is available to individuals affected by cancer, autoimmune disease, and other reproductive health conditions; as well as those facing medical treatments that may cause infertility.⁶

¹ National Health Services, *Infertility: Causes*, <https://www.nhs.uk/conditions/infertility/causes/> (last visited Mar. 5, 2025).

² National Health Services, *Infertility: Causes*, *supra* n. 1; James F. Buchanan & Larry Jay Davis, *Drug-induced infertility*, 18(2) DRUG INTELL CLIN PHARM. 122, available at <https://pubmed.ncbi.nlm.nih.gov/6141923/> (last visited Mar. 5, 2025).

³ Mayo Clinic Staff, *Fertility preservation: Understand your options before cancer treatment*, <https://www.mayoclinic.org/healthy-lifestyle/getting-pregnant/in-depth/fertility-preservation/art-20047512> (last visited Mar. 5, 2025).

⁴ Yale Medicine, *Fertility Preservation*, <https://www.yalemedicine.org/conditions/fertility-preservation> (last visited Mar. 5, 2025).

⁵ Cleveland Clinic, *Fertility Preservation*, <https://my.clevelandclinic.org/health/treatments/17000-fertility-preservation> (last visited Mar. 5, 2025).

⁶ *Id.*; Mayo Clinic, *Fertility Preservation: Understand your options before cancer treatment*, <https://www.mayoclinic.org/healthy-lifestyle/getting-pregnant/in-depth/fertility-preservation/art-20047512> (last visited Mar. 5, 2025).

For female patients, fertility preservation comprises retrieval, cryopreservation, and storage of ova, but the patient will still require in vitro fertilization (IVF) services in the future.⁷ The cost of a fertility preservation cycle can be expensive, since the average procedure costs of one cycle of oocyte cryopreservation or embryo cryopreservation, excluding storage costs, are \$10,000-\$15,000 and \$11,000-\$15,000, respectively.⁸ Estimates for medication are generally \$3,500 to \$6,000.⁹ Further, storage is an additional cost of \$700-\$1,000 per year.¹⁰ For men, fertility preservation options cost in the range of \$500- \$12,000, excluding storage costs.¹¹ The high cost of fertility preservation services and lack of insurance coverage are often cited as reasons for the low utilization of fertility preservation services.¹² In 2024, there were 16 states with insurance mandates for fertility preservation, including California, Colorado, Connecticut, Delaware, Illinois, Kentucky, Louisiana, Maine, Maryland, Montana, New Hampshire, New Jersey, New York, Rhode Island, Texas, and Utah.¹³

In 2024, the American Society for Clinical Oncology (ASCO) updated their fertility preservation recommendations for people with cancer.¹⁴ The ASCO evidence-based clinical guidelines included the following recommendations:

- For females, established fertility preservation should be offered, including embryo, oocyte, ovarian tissue cryopreservation, ovarian transposition, and conservative gynecologic surgery. In vitro maturation of oocytes may be offered as an emerging method. Post treatment fertility preservation may be offered to individuals who did not undergo pretreatment fertility preservation or cryopreserve enough oocytes or embryos.
- For males, sperm cryopreservation should be offered before cancer-directed treatment. Other alternative treatments are recommended.
- For children who have begun puberty, established FP methods should be offered with patient assent and parent/guardian consent. The only established method for prepubertal females is ovarian tissue cryopreservation.

The ASCO guidelines note that the live birth rate for women having the procedures varies, as described below:

- Embryo cryopreservation, 35-41 percent;
- Oocyte cryopreservation, 26-32 percent;

⁷ New York State, Department of Financial Services, [DFS: Report on In-Vitro Fertilization and Fertilization Preservation Coverage](#) (Feb. 27, 2019) (last visited Mar. 24, 2025).

⁸ Sauerbrun-Cutler, M.-T.; Rollo, A.; Gadson, A.; Eaton, J.L. *The Status of Fertility Preservation Insurance Mandates and Their Impact on Utilization and Access to Care*. *J. Clin. Med.* 2024, 13, 1072.

<https://pmc.ncbi.nlm.nih.gov/articles/PMC10889224/pdf/jcm-13-01072.pdf> (last visited Mar. 24, 2025).

⁹ Pacific Fertility Center Los Angeles, *The Cost of Egg Freezing in the U.S.* (Jun. 29, 2022),

[https://www.pfcla.com/blog/egg-freezing-](https://www.pfcla.com/blog/egg-freezing-costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront)

[costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront](https://www.pfcla.com/blog/egg-freezing-costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront). (last visited Mar. 26, 2025).

¹⁰ *Id.*

¹¹ Alliance for Fertility Preservation, *Paying for Treatments* <https://www.allianceforfertilitypreservation.org/paying-for-treatments/> (last visited Mar. 26, 2025).

¹² Pacific Fertility Center Los Angeles, *The Cost of Egg Freezing in the U.S.* (Jun. 29, 2022),

[https://www.pfcla.com/blog/egg-freezing-](https://www.pfcla.com/blog/egg-freezing-costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront)

[costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront](https://www.pfcla.com/blog/egg-freezing-costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront)

¹³ *Id.*

¹⁴ American Society for Clinical Oncology, *Fertility Preservation in People with Cancer: ASCO Guideline Update* ((Mar. 19, 2025), Updated Guidelines approved Dec. 16, 2024. *J. Clin. Oncol* 001:28.

- Ovarian transposition, 18-55 percent;
- Conservative gynecological surgery, 11-89 percent; and
- Ovarian tissue cryopreservation, 19-32 percent.

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).¹⁵ The program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.¹⁶ The program is an optional benefit for most state employees employed by state agencies, state universities, the court system, and the Legislature. The program provides health, life, dental, vision, disability, and other supplemental insurance benefits. To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S. The DSGI, with prior approval by the Legislature, is responsible for determining the health benefits provided and the contributions to be required for the program.¹⁷ To achieve the "prior approval" aspect, the Legislature directs the benefits to be offered each year in the general appropriations act. For example, in the 2024-2025 General Appropriations Act, the Legislature directed:

For the period July 1, 2024, through June 30, 2025, the benefits provided under each of the plans shall be those benefits as provided in the current State Employees' PPO Plan Group Health Insurance Plan Booklet and Benefit Document, and current Health Maintenance Organization contracts and benefit documents, including any revisions to such health benefits approved by the Legislature.¹⁸

Coverage for Fertility Treatments¹⁹

Currently, the Program only provides coverage for tests to determine the cause of infertility and the treatment of medical conditions resulting in infertility, excluding fertility tests and treatments considered experimental or investigational. The Program does not provide coverage for fertility testing and treatment for the specific purpose to assist in achieving pregnancy, including IVF, artificial insemination, follicle puncture for retrieval of oocyte, abdominal or endoscopic aspiration of eggs from ovaries, all other procedures related to the retrieval and/or placement and/or storage of oocyte, eggs, embryos, ovum or embryo placement or transfer, gamete intrafallopian transfer, cryogenic and/or other preservation techniques used in such and/or similar procedures.

¹⁵ Section 110.123, F.S.; Department of Management Services, Division of State Group Insurance, *Legislative and Policy Resources*, https://www.dms.myflorida.com/workforce_operations/state_group_insurance/legislative_and_policy_resources (last visited Mar. 7, 2025).

¹⁶ A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

¹⁷ Section 110.123(5)(a), F.S.

¹⁸ Chapter 2024-231, s. 8(3)(c)2, Laws of Fla.

¹⁹ Department of Management Services, *Analysis of CS/SB 924* (Mar. 28, 2025) (on file with the Florida Senate Committee on Banking and Insurance).

Health Insurance Premiums and Revenues

The health insurance benefit for active employees has premium rates for single, spouse program,²⁰ or family coverage regardless of plan selection. These premiums cover both medical and pharmacy claims. Over 193,000 active and retired state employees and officers are expected to participate in the health insurance program during Fiscal Year 2025-2026.²¹ The estimated total revenues expected for FY 2024-25 is over \$3.75 billion with an over \$4.1 billion expected cash balance. Total expenses expected for FY 2024-25 is \$3.9 billion.²²

III. Effect of Proposed Changes:

Section 1 amends 110.12303, F.S., to expand coverage under the state employee health insurance plan for policies or contracts issued on or after January 1, 2026, to include coverage for standard fertility preservation services, consistent with the laws of this state, when cancer treatments may cause directly or indirectly iatrogenic infertility.

Iatrogenic infertility is defined as the impairment of fertility directly or indirectly caused by surgery, chemotherapy, radiation, or other medical necessary treatment with a potential side effect of impaired fertility as established by the American Society for Clinical Oncology.

The term, “standard fertility retrieval and preservation services,” is defined as oocyte and sperm retrieval and preservation procedures, including ovarian tissue, sperm, and oocyte cryopreservation, which are consistent with nationally recognized clinical practice guidelines and definitions. Such coverage includes the cost of retrieval and storage of such material for up to three years from the date of the procedures presenting a risk of iatrogenic infertility or when the individual is no longer covered under the state group health insurance plan, whichever occurs first.

The bill prohibits state group health insurance plans from requiring preauthorization for coverage of standard fertility preservation procedures. The coverage, however, may still be limited by provisions relating to maximum benefits, deductibles, copayments, and coinsurance.

Section 2 provides that the bill takes effect July 1, 2025.

²⁰ The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

²¹ Florida Legislature, Office of Economic and Demographic Research, State Employees’ Group Health Self-Insurance Trust Fund: Exhibit I Enrollment Outlook by Fiscal Year, *in* JULY AND AUGUST 2024 SELF-INSURANCE ESTIMATING CONFERENCE PUBLICATIONS (published by Florida Legislature, Office of Economic and Demographic Research), 2, available at <https://edr.state.fl.us/content/conferences/healthinsurance/archives/240807healthins.pdf> (last visited Mar. 7, 2024).

²² Florida Dept. of Management Services, Division of State Group Insurance, State Employees’ Group Health Self-Insurance Trust Fund Report on Financial Outlook for the Fiscal Years Ending June 30, 3034 through June 30, 3029 (Aug. 7, 2024), *in* JULY AND AUGUST 2024 SELF-INSURANCE ESTIMATING CONFERENCE PUBLICATIONS (published by Florida Legislature, Office of Economic and Demographic Research), 8, available at <https://edr.state.fl.us/content/conferences/healthinsurance/archives/240807healthins.pdf> (last visited Mar. 7, 2024) (beginning on page 48 of collection).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None identified.

B. Private Sector Impact:

The coverage of fertility preservation services will allow eligible individuals covered by the Program to obtain fertility preservation services without incurring significant out-of-pocket costs that may exceed \$15,000 or more per fertility preservation cycle.

The inclusion of coverage for fertility preservation services with cost sharing restrictions may positively impact physicians who will likely see an increased demand for their services as well as collateral and ancillary medical supports such as medical facilities that would store oocytes and sperm.

C. Government Sector Impact:²³

The bill has a negative impact on state revenues and expenditures. The DSGI within the DMS administers the Program. The DMS estimated the total annual fiscal impact of

²³ Department of Management Services, *Analysis of CS/SB 924* (Mar. 28, 2025) (on file with the Florida Senate Committee on Banking and Insurance). Committee Staff have requested an updated fiscal analysis of CS/CS/SB 924.

CS/SB 924 as \$3,200,000. CS/CS/SB 924 narrowed the coverage to medically necessary expenses relating to standard fertility preservation services when *cancer treatments* may cause iatrogenic infertility. Actual costs could, however, vary widely based on actual member utilization and the necessary level of utilization. The bill does not provide guidance regarding what age groups, such as children or adults, would be eligible for such coverage under the bill.

The bill prohibits the plans from imposing any preauthorization for these services, therefore, the ability for plans to verify a member's eligibility, including diagnosis and treatment, may be limited. The DMS expressed concern that the list of services provided may be broader than intended, noting that if the list of services or the services provided are broader than anticipated, the fiscal impact will increase. Most of the plans can implement this legislation without issue as they currently offer standard fertility preservation options for other entities. One contracted group indicated that this would be a new benefit that could require system coding.

VI. Technical Deficiencies:

The bill does not define what age groups, children or adults, would be eligible for such coverage. The comprehensive list of services, procedures, medications, or diagnostic tests are intended to be covered by the bill is unknown. There are multiple procedure codes associated with fertility preservation.²⁴

The definition of the term, "iatrogenic fertility," means an impairment of fertility caused by specified treatments or procedures or "other associated medically necessary treatment with a potential side effect of impaired fertility as established by the American Society for Clinical Oncology." However, coverage of standard fertility preservation services under s. 110.12303(7)(b), F.S., must be consistent with "nationally recognized clinical practice guidelines and definitions." Section 110.12303(7)(d)3., F.S., creates a definition of the term, "standard fertility retrieval and preservation services," and provides that the services must be consistent with "nationally recognized clinical guidelines and definitions." To provide consistency and greater specificity in the bill, the undesignated guidelines and definitions could be replaced with guidelines established by the American Society for Clinical Oncology.

The bill replaces the defined term, "standard fertility preservation services," with the defined term, "standard fertility retrieval and preservation services;" however, the term, "standard fertility preservation services," is still used in the bill at lines 24-25 and 27.

VII. Related Issues:

The prohibition on the use of prior authorization by insurers or HMOs may result in an insurer or HMO subsequently denying some claims or portions of claims due to a lack of medical necessity, use of medications not covered by a plan, or use of an out-of-network provider or

²⁴ University of California, San Diego Health and Alliance for Fertility Preservation, *Using Insurance for Fertility Preservation: A Patient's Guide* (Jul. 15, 2024), <https://health.ucsd.edu/globalassets/content/primary-specialty-care/fertility-care/patient-insurance-guide-7.2024.pdf> (last visited Apr. 1, 2025). The guide identifies 23 CPT Codes (Current Procedure Terminology codes) associated with fertility preservation services and procedures.

facility, which may result in the insured being held liable for the costs of any denied claims for services rendered by a provider.

VIII. Statutes Affected:

This bill substantially amends section 110.12303 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Banking and Insurance on March 31, 2025:

- Clarifies that coverage for standard fertility preservation services must be consistent with the laws of this state;
- Revises coverage of medically necessary expenses related to standard fertility preservation service to apply when cancer treatments may cause iatrogenic infertility;
- Revises definition of the term, “iatrogenic infertility,” by revising treatment guidelines referenced in the definition of the term; and
- Eliminates the definition of the term, “standard fertility preservation services,” and creates a definition of the term, “standard fertility retrieval and preservation services” to clarify coverage.

CS by Governmental Oversight and Accountability on March 11, 2025:

- Clarifies that coverage for fertility preservation services for an individual under the state group health insurance plan facing iatrogenic is not limited to those diagnosed with cancer;
- Deletes references to reproductive age and the American Society of Clinical Oncology;
- Provides for the expiration of coverage of the cost of storage when an individual is no longer covered under the state health insurance plan;
- Conforms standards of procedures and storage to nationally recognized clinical practice guidelines and definitions; and
- Defines nationally recognized clinical practice guidelines and definitions.

B. Amendments:

None.