

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 924

INTRODUCER: Senator Calatayud

SUBJECT: Coverage for Fertility Preservation Services

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	McVaney	GO	<b>Pre-meeting</b>
2.			BI	
3.			AP	

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**I. Summary:**

SB 924 requires all contracted state group health insurance plans issued on or after January 1, 2026, to cover and pay for standard fertility preservation services for individuals undergoing medically necessary treatments that may result in iatrogenic infertility. The bill prohibits a state group health insurance plan from imposing any preauthorization requirements.

The bill likely has a negative impact on state revenues and expenditures. The Division of State Group Insurance within the Department of Management Services estimates an annual fiscal impact of \$813,000 to the state employee group health plan.

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.<sup>1</sup> 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.<sup>2</sup>

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

<sup>2</sup> 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).

### ***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.<sup>3</sup>

### **Fertility Preservation Services**

Fertility preservation is the practice of proactively helping patients to preserve their chances for future reproduction.<sup>4</sup> 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).<sup>5</sup> 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.<sup>6</sup>

### **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).<sup>7</sup> The program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.<sup>8</sup> 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.<sup>9</sup> To achieve the "prior approval"

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<sup>3</sup> 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).

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

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

<sup>6</sup> *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).

<sup>7</sup> 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](https://www.dms.myflorida.com/workforce_operations/state_group_insurance/legislative_and_policy_resources) (last visited Mar. 7, 2025).

<sup>8</sup> 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.

<sup>9</sup> Section 110.123(5)(a), F.S.

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.<sup>10</sup>

### ***Health Insurance Premiums and Revenues***

The health insurance benefit for active employees has premium rates for single, spouse program,<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends 110.12303, F.S., to expand coverage under the state employee health insurance plan for policies issued on or after January 1, 2026, to include coverage for standard fertility preservation services where medically necessary treatment may cause iatrogenic infertility.

Iatrogenic infertility is defined as the impairment of fertility directly or indirectly caused by surgery, chemotherapy, radiation, or other medical treatment. Standard fertility preservation services is defined as oocyte and sperm preservation procedures and includes the cost of storing such material for up to three years.

This new coverage extends to covered individuals who have been diagnosed with cancer for which necessary cancer treatment may directly or indirectly cause iatrogenic infertility and who are within a reproductive age range established by the American Society of Clinical Oncology or the American Society for Reproductive Medicine.<sup>14</sup>

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<sup>10</sup> Chapter 2024-231, s. 8(3)(c)2, Laws of Fla.

<sup>11</sup> The Spouse Program provides discounted rates for family coverage when both spouses work for the state.

<sup>12</sup> 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).

<sup>13</sup> Florida Dep't 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).

<sup>14</sup> *But see* VI. Technical Deficiencies *infra*.

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.

#### **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 inclusion of coverage for fertility preservation services with cost sharing restrictions may positively impact physicians who likely will 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.

Most of the plans contracted with 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.<sup>15</sup>

**C. Government Sector Impact:**

The bill has a negative impact on state revenue and expenditures. The DSGI within the DMS administers the Program. The DMS estimates the total annual fiscal impact as \$813,000. Actual costs could, however, vary widely based on actual member utilization and the necessary level of utilization.<sup>16</sup>

**VI. Technical Deficiencies:**

**Class of Patients Eligible for Covered Services**

The bill directs DMS to provide coverage for standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility. This appears to mean any treatment – for cancer or any other condition. The bill says this new covered service “extends to covered individuals who have been diagnosed with cancer ... and who are within reproductive age.” The limitation regarding reproductive age does not appear to apply to patients who have not been diagnosed with cancer. With these ambiguities, the bill should be modified to clearly address whether the new covered services must be available to all patients, regardless of underlying diagnosis and its treatment, and whether the reproductive age limitation applies to any or all of the covered patients.

Line 29 limits the coverage to individuals “who are within reproductive age.” Lines 48 to 51 define reproductive age to conform to the age range established by the American Society of Clinical Oncology or the American Society for Reproductive Medicine. The American Society of Clinical Oncology defines reproductive age as 18 to 40 years of age for women, and 18 to 50 years of age for men. The American Society for Reproductive Medicine does not have a clear age range of what reproductive age includes but does discuss different classes of fertility for women based on age, including qualifications starting at age 35. The use and subsequent definition of the term reproductive age may be both unnecessary and internally conflicting. Moreover, the term could lead to unintended consequences, such as excluding individuals and causing disparate impact on men and women.

**Covered Storage Services**

At lines 30-33, the bill provides that standard fertility preservation services include the costs associated with storing oocytes and sperm for up to 3 years. The bill also defines, at lines 52-57, standard fertility preservation services to include oocyte and sperm preservation procedures that are consistent with established medical practices or professional guidelines. This limitation is not included in lines 30-33. It is therefore unclear whether the medical standards required in lines 52-57 apply to the storage services.

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<sup>15</sup> Dep’t of Management Services, *Senate Bill 924 Analysis* (Mar. 7, 2025) (on file with the Senate Committee on Government Oversight and Accountability).

<sup>16</sup> *Id.*

Additionally, the 3-year time limitation on the storage of material may be ambiguous. It is unclear whether the 3-year clock begins at commencement of the standard fertility preservation service, once the oocytes or sperm are ready for storage, or some other period. It is unclear if the state health insurance plan must continue coverage of costs after an individual leaves the health insurance plan, whether through finding another job, no longer being able to work, or death or a change in insurance plan. It is also unclear whether coverage for the storage services continues if the covered individual ages out of “reproductive age” before the 3-year period ends.

### **Differing Organizational Definition and Standards**

At numerous times the bill defers the definitions or standards relevant to those used by the “American Society of Clinical Oncology or the American Society for Reproductive Medicine.” These groups’ definitions and standards may differ and therefore may result in inconsistent application of the law.

#### **VII. Related Issues:**

None identified.

#### **VIII. Statutes Affected:**

This bill substantially amends section 110.12303 of the Florida Statutes.

#### **IX. Additional Information:**

##### **A. Committee Substitute – Statement of Changes:**

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

None.

##### **B. Amendments:**

None.