

Date: (Filing No. S- )

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STATE OF MAINE
SENATE
130TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " " to COMMITTEE AMENDMENT "A" to H.P. 1144, L.D. 1539, "An Act To Provide Access to Fertility Care"

Amend the amendment in the first paragraph after the title in the last line (page 1, line 12 in amendment) by striking out the following: "§4320-R" and inserting the following: '§4320-S'

Amend the amendment in the 2nd paragraph after the title in the last line (page 1, line 14 in amendment) by striking out the following: "§4320-R" and inserting the following: '§4320-S'

Amend the amendment by inserting after the 4th paragraph after the title the following: 'Amend the bill in section 1 in §4320-Q in subsection 2 in the 2nd line (page 1, line 40 in L.D.) by inserting after the following: "subsection" the following: 'and as set forth in rules adopted by the bureau'

Amend the bill in section 1 in §4320-Q in subsection 2 by striking out all of the first blocked paragraph (page 2, lines 2 to 8 in L.D.).

Amend the bill in section 1 in §4320-Q by striking out all of subsection 3 (page 2, lines 9 to 34 in L.D.) and inserting the following:

'3. Limitations on coverage. A health plan that provides coverage for the services required by this section may include reasonable limitations to the extent that these limitations are not inconsistent with the following requirements and rules adopted by the bureau.

A. A carrier may not impose a waiting period.

B. A carrier may not use any prior diagnosis or prior fertility treatment as a basis for excluding, limiting or otherwise restricting the availability of coverage required by this section.

C. A carrier may not impose any limitations on coverage for any fertility services based on an enrollee's use of donor gametes, donor embryos or surrogacy.

D. A carrier may not impose different limitations on coverage for, provide different benefits to or impose different requirements on a class of persons protected under Title 5, chapter 337 than those of other enrollees.

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1 E. Any limitations imposed by a carrier must be based on an enrollee's medical history  
2 and clinical guidelines adopted by the carrier. Any clinical guidelines used by a carrier  
3 must be based on current guidelines developed by the American Society for  
4 Reproductive Medicine, its successor organization or a comparable organization, must  
5 cite with specificity any data or scientific reference relied upon, must be maintained in  
6 written form and must be made available to an enrollee in writing upon request.'

7 Amend the bill in section 1 in §4320-Q by striking out all of subsection 5 (page 2, lines  
8 39 to 41 in L.D.) and inserting the following:

9 '5. Rules. The superintendent may adopt rules to implement the requirements of this  
10 section, including, without limitation, cost-sharing, benefit design and clinical guidelines.  
11 In adopting rules under this subsection, the superintendent shall consider the clinical  
12 guidelines developed by the American Society for Reproductive Medicine, its successor  
13 organization or a comparable organization. Rules adopted pursuant to this subsection are  
14 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

15 Amend the bill by inserting after section 1 the following:

16 **'Sec. 2. Evaluation.** Upon consultation with the United States Department of Health  
17 and Human Services, Centers for Medicare and Medicaid Services, the Superintendent of  
18 Insurance shall evaluate whether the coverage required by the Maine Revised Statutes, Title  
19 24-A, section 4320-S can be incorporated as part of the essential health benefit package as  
20 defined in Title 24-A, section 4320-D or whether the federal Centers for Medicare and  
21 Medicaid Services would determine that the transfer of costs defrayed by the State to the  
22 federal Centers for Medicare and Medicaid Services pursuant to 42 United States Code,  
23 Section 18031(d)(3)(B) would be required. The superintendent shall report by December  
24 31, 2022 to the joint standing committee of the Legislature having jurisdiction over health  
25 coverage, insurance and financial services matters concerning its consultation with the  
26 federal Centers for Medicare and Medicaid Services and the outcome of that consultation.  
27 The joint standing committee of the Legislature having jurisdiction over health coverage,  
28 insurance and financial services matters may report out a bill based on the evaluation under  
29 this section to the First Regular Session of the 131st Legislature.'

30 Amend the bill in section 2 in the 3rd line (page 3, line 1 in L.D.) by striking out the  
31 following: "2023" and inserting the following: '2024' '

32 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or  
33 section number to read consecutively.

## 34 SUMMARY

35 This amendment revises language concerning required coverage, clinical guidelines  
36 developed by the American Society for Reproductive Medicine and limitations on coverage  
37 and allows the Superintendent of Insurance to adopt routine technical rules to implement  
38 the provisions of this legislation. It requires the Superintendent of Insurance to consult  
39 with the United States Department of Health and Human Services, Centers for Medicare  
40 and Medicaid Services to evaluate whether fertility benefits may be part of the essential  
41 health benefit package that is required under all health insurance plans in the State and to  
42 report to the joint standing committee of the Legislature having jurisdiction over health  
43 coverage, insurance and financial services matters by December 31, 2022. The joint  
44 standing committee is authorized to report out a bill to the First Regular Session of the

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1 131st Legislature. The amendment also changes the application date in the bill to January  
2 1, 2024.

3 **SPONSORED BY:** \_\_\_\_\_

4 (Senator SANBORN, H.)

5 COUNTY: Cumberland