

November 12, 2024

The Honorable Jack Reed
Chairman
Senate Armed Services Committee
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Senate Armed Services Committee
Washington, DC 20510

The Honorable Mike Rogers
Chairman
House Armed Services Committee
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
House Armed Services Committee
Washington, DC 20515

Dear Chairmen and Ranking Members:

On behalf of U.S. Donor Conceived Council (“USDCC”), we strongly oppose the inclusion of the “embryo preservation” provision in Section 627 of S. 4638 in the final version of the National Defense Authorization Act (“NDAA”). USDCC is a nonprofit in the United States formed and led by donor conceived people that advocates for the interests of people born as a result of egg, sperm, or embryo donation.¹ USDCC strongly supports patients’ rights to use and access IVF and other assisted reproduction technologies to build their families; however, the interference with patients’ rights to dispose of embryos in the manner they choose has the potential to negatively impact military families and donor conceived people for decades.

Section 627(f) of S. 4638 requires military families who have embryos created by in vitro fertilization to store their embryos in perpetuity or release the embryos for the “purpose of embryo adoption.”² The cryopreservation and storage in perpetuity simply delays disposition decisions. Section 627(f) of S. 4638 does not specify who would be responsible for the “storage in perpetuity” potentially burdening service members with the cost of storage of embryos they do not want to use.

Section 627(f) of S. 4638 effectively forces service members to donate their embryos to other families for the “purpose of embryo adoption”. Service members simply trying to access reproductive healthcare should not be forced to give their genetic materials to

¹ U.S. Donor Conceived Council website available at <https://www.usdcc.org>.

² S. 4638 Section 627(f)(2).

others for the creation of genetic children they do not want. Many donor conceived people value connection with close genetic relatives.³ The creation of unwanted donor conceived people born as a result of forced embryo donation may deeply impact donor conceived people's ability to have these relationships.

Service members' inability to dispose of their embryos in the manner they choose (e.g., through discard, donation to scientific research) could contribute to the growing number of frozen embryos in the United States, which is estimated to be more than 1.5 million.⁴ The existing surplus of frozen embryos in the United States has resulted in the birth of children through transfer of embryos previously stored for decades.⁵ Because many donor conceived people value connecting with close genetic relatives, an increase in the use of "older" embryos is very concerning. Due to the passage of time, people born as the result of using older embryos may not have an opportunity to connect with, or obtain their family medical history from, their close genetic relatives, including the donor or siblings born decades earlier.

USDCC is also concerned that patients who are denied the ability to choose dispositions other than embryo donation may be functionally unable to access IVF. The inclusion of Section 627(f) in S. 4638 means patients may be burdened with the long-term cost of embryo storage, forced embryo donation and/or will be forced to have a substandard level of care not inline with American Society for Reproductive Medicine and American College of Obstetricians and Gynecologists guidelines. Given the limits on the amount of treatment covered in S. 4638 requiring multiple egg retrievals, the cryopreservation of eggs prior to fertilization, and other deviations in the recommended standard of care may result in service members being unable to build their families.

Thank you for your efforts to extend essential health care to military families. We urge you to ensure that Section 627(f) of S. 4638 is not included in the final version of the NDAA.

Sincerely,

U.S. Donor Conceived Council

³ [https://www.fertstert.org/article/S0015-0282\(16\)62946-1/pdf](https://www.fertstert.org/article/S0015-0282(16)62946-1/pdf)

⁴ <https://www.msnbc.com/opinion/msnbc-opinion/alabama-ivf-supreme-court-consequences-rcna140004>

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<https://www.cnn.com/2022/11/21/health/30-year-old-embryos-twins/index.html?fbclid=IwAR1xjjY1rciEy3ih6S23DpBdKo-PxkQVhvYcuuvvg3slbikJqXzboCFi0wL8>