

Policy At A Glance:

Health Care Coverage:

Treatment for Infertility and Fertility Services (SB 729)

Across the nation, general fertility rates are declining, and reproductive health services are under scrutiny. This brief provides an overview of the declining birth rates and increasing aging population in California, the California Pregnancy-Associated Mortality Review, and the efforts to expand and protect fertility treatment services through SB 729.

Introduction

Across the nation, the general fertility rate dropped by three percent in 2022, hitting a record low. This marked the second consecutive year of decline as of 2024, after a slight one percent rise between 2020 and 2021.¹ In California, this trend is even more pronounced. The state's birth rate has fallen to near-historic lows, contributing significantly to a slowdown in population growth.²

Birth rate plays a crucial role in shaping a country's population growth and can significantly influence policy decisions related to healthcare, education, and the economy.³ Alongside recent drops in international immigration and increasing life expectancy, an aging population and retirement are expected to create long term pressures.⁴

Therefore, on September 29, 2024, Governor Gavin Newsom signed Health Care Coverage: Treatment for Infertility and Fertility Services (SB 729) into law. Initially scheduled to go into effect this month until AB 116 signed on June 30, 2025 delayed the implementation date to January 1, 2026, SB 729 aims to expand and ensure equitable access to fertility treatment services by requiring large health insurance plans to cover these services.⁵

This brief provides an overview of the declining birth rates and increasing aging population in California, the California Pregnancy-Associated Mortality Review, and the efforts to expand and protect fertility treatment services through SB 729.

Relevant Dates for S.B. 729⁵

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| 02/17/2023 | Introduced in the California State Senate |
| 03/01/2023 | Referred to the Committee on Health |
| 05/24/2023 | Passed in the California State Senate |
| 08/28/2024 | Passed in the California State Assembly |
| 09/29/2024 | Signed into law by Governor Newsom |
| 06/30/2025 | Budget trailer bill AB 116 that delays SB 729 implementation is signed |
| 07/01/2025 | Scheduled to go into effect originally |
| 01/01/2026 | New date for SB 729 implementation |

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California's Decline in Birth Rates and Increase in Aging Population

Economic, social, health, and historical factors strongly influence family size and birth rates.² Studies show that U.S. adults under 50 are choosing not to have children due to a variety of reasons, including financial constraints, concerns about the current state of the world, and fertility challenges.⁶ In California, these national trends have been accompanied by notable demographic shifts.^{7,8} During the COVID-19 pandemic, the state experienced its first recorded population decline since becoming a state in 1850, with a loss of over 182,000 residents in 2020 alone.^{7,9}

At the same time, falling birth rates and increased life expectancy are all contributing to an older population.^{7,8} Research shows that in 2020, there were nearly four working-age adults (18-64) for every person aged 65 and older.⁷ It is estimated that by 2030, adults aged 65 and older will outnumber children in California, and by 2040, those 65 and older will comprise 22% of the state's population, up from 14% in 2020. This demographic shift raises concerns about the shrinking labor force as workers retire and the increasing pressure on social and healthcare systems.^{10,11}

As the population ages and the demand for elder care increases, California's already strained healthcare infrastructure will require innovative solutions and policy reforms to meet the growing needs.¹² Falling birth rates raise concern due to the economic strain of aging, shrinking populations and a declining workforce supporting more retirees.¹³

The California Pregnancy Associated Mortality Review

Maternal mortality is a vital measure of population health, as pregnancy-related deaths should be rare.¹⁴ In California, approximately 70 pregnant or birthing people die annually from pregnancy or childbirth complications. Therefore, the California Department of Public Health's Maternal, Child and Adolescent Health Division established the California Pregnancy-Associated Mortality Review (CA-PAMR) in 2006. The CA-PAMR reviews death among pregnant or recently pregnant Californians to determine the underlying causes of pregnancy-related death to make actionable, data informed recommendations for preventing pregnancy-related deaths and health inequities.¹⁵ Deaths are identified and tracked through the California Pregnancy Mortality Surveillance System (CA-PMSS).^{14,15} Established in 2018, the CA-PMSS is a statewide surveillance system that monitors deaths among Californians who were pregnant in the past year to support public health efforts.¹⁴



Expanding IVF Insurance Coverage in California

The Cost of Fertility Treatment in California

Infertility is a global public health concern that significantly affects women's wellbeing through its psychological, financial, and social repercussions, yet only 50% of women affected seek treatment.¹⁶ Research shows that while women face several barriers to seeking infertility treatment, the most common is financial due to the high cost of treatment options.^{16,17} For example, while the cost of in vitro fertilization (IVF) can fluctuate due to various factors, a basic IVF cycle in California is upwards of \$20,000 without medications. Additional procedures, including egg donation, intracytoplasmic sperm injection (ICSP), and preimplantation genetic testing (PGT), can drastically increase the costs.¹⁸ Therefore, The Health Care Coverage: Treatment for Infertility and Fertility Services (SB 729) was signed into law on September 29, 2024, to provide coverage for fertility care, including infertility and IVF treatment, to reduce financial burdens.⁵

Updated Definition of Infertility

SB 729 modernizes the definition of infertility to be more inclusive and medically accurate. The updated definition recognizes infertility as a disease, condition, or status that results in an individual's inability to reproduce either as an individual or with their partner without medical intervention.⁵ It removes previous language that required heterosexual intercourse over a certain period as a qualifier, extending access to people who require assisted reproductive treatments regardless of sexual orientation, gender identity, or relationship status.^{5,19,20}

Updated Health Plan Coverage

Starting January 1, 2026, large group health insurance policies that cover more than 100 employees in California will be required to include comprehensive coverage for the diagnosis and treatment of infertility.^{5,19} Specifically, SB 729 mandates coverage for up to three completed oocyte (egg) retrieval procedures, along with an unlimited number of embryo transfers, provided these services are consistent with clinical guidelines established by the American Society for Reproductive Medicine.^{5,19,20}

However, SB 729 does not require small group employers (with 100 or fewer employees) to cover any infertility treatment or diagnosis.²¹ This means that while the option must be made available by insurance providers, employers or individuals purchasing these plans are not obligated to include fertility benefits.^{5,19,21}

Non-Discrimination Requirements

SB 729 introduces strict non-discrimination provisions that ensure access to fertility services is fair and inclusive. Health insurance plans are prohibited from applying different terms, conditions, or limitations to fertility treatments than they would for other medical conditions.⁵ Specifically, the law eliminates discrimination against individuals in fertility coverage by banning bias based on age, sex, gender identity, sexual orientation, marital status, or other protected characteristics. This helps ensure that individuals, such as LGBTQ+ couples and single people, are not denied fertility coverage based on outdated or exclusionary criteria.^{5,22}

Conclusion

The legal environment in the United States is becoming increasingly challenging for fertility treatments such as IVF, partly due to some anti-abortion groups pushing for a ban on IVF because of unused embryos.^{23,24} Meanwhile, the landscape of fertility care in California is shifting with the passage of SB 729.²⁴ This bill ensures that Californians can continue to access fertility treatments without fear of service interruptions or legal repercussions.²² By safeguarding access to fertility care, SB 729 positions California as a national leader in protecting reproductive health services, even as such treatments face growing uncertainty elsewhere in the country.

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Did you know?

In 2021, there was 21.6 pregnancy-related deaths per 100,000 live births in California.²⁵



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