



2013 SENATE BILL 623

February 20, 2014 – Introduced by Senators ERPENBACH, SHILLING, HARRIS, HANSEN, RISSER, L. TAYLOR, T. CULLEN, LEHMAN, MILLER, LASSA, WIRCH, VINEHOUT and C. LARSON, cosponsored by Representatives PASCH, C. TAYLOR, WRIGHT, DANOU, OHNSTAD, BERCEAU, MILROY, KOLSTE, SARGENT, SHANKLAND, SINICKI, GOYKE, GENRICH, BARNES, JOHNSON, MASON, POPE, BEWLEY, KAHL, RINGHAND, KESSLER, RIEMER, BILLINGS, CLARK, HEBL, ZEPNICK, WACHS, HINTZ, BERNARD SCHABER, ZAMARRIPA, YOUNG and HESSELBEIN. Referred to Committee on Health and Human Services.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 253.095, 253.10 (3) (c) 1. gm., 253.10 (3) (em), 253.10 (3g),
2 253.10 (6) (am) and 253.10 (6) (dm); **to amend** 253.10 (3) (c) (intro.), 253.10 (3)
3 (c) 5., 253.10 (3) (d) 1., 253.10 (3m) (a) (intro.), 253.10 (5) and 253.10 (6) (b); and
4 **to create** 253.10 (3) (c) 1. gg. of the statutes; **relating to:** eliminating
5 requirement to have an ultrasound before obtaining an abortion and
6 eliminating requirement that physicians performing abortions have admitting
7 privileges at certain hospitals.

Analysis by the Legislative Reference Bureau

Under current law, a woman upon whom an abortion is to be performed or induced must give voluntary and informed written consent to the abortion. Under current law, with certain exceptions, a woman's consent to an abortion is considered informed only if, at least 24 hours before the abortion is performed or induced, the physician or an assistant has, in person, orally provided the woman with certain information and given to the woman certain written materials. Before the enactment of 2013 Wisconsin Act 37, the information required to be orally provided by the physician performing or inducing the abortion or another qualified physician to the woman included that fetal ultrasound imaging and auscultation of fetal heart tone services are available and how to obtain ultrasound imaging and auscultation services if she desires to do so. In 2013 Wisconsin Act 37, this requirement to provide

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information about obtaining fetal ultrasound imaging and auscultation services was eliminated. This bill reinstates the requirement to provide information on fetal ultrasound imaging and auscultation services as it was before enactment of 2013 Wisconsin Act 37.

Current law requires, except in a medical emergency and except in the situation where the pregnancy is the result of sexual assault, that before a person may perform or induce an abortion the physician who is to perform or induce the abortion or any physician requested by the pregnant woman must do all of the following or shall arrange for a person who is qualified to perform an ultrasound to do all of the following: perform an ultrasound on the pregnant woman using whichever transducer the woman chooses; provide a simultaneous oral explanation during the ultrasound; display the ultrasound images so that the pregnant woman may view them; provide a medical description of the ultrasound images; and provide a means for the pregnant woman to visualize any fetal heartbeat, if detectable by the chosen ultrasound transducer type, and a simultaneous oral explanation of the visual display of the heartbeat (ultrasound requirements). Current law requires that, as part of the information a physician must provide a pregnant woman at least 24 hours before an abortion is performed or induced, the physician must tell the pregnant woman that she is required to obtain an ultrasound and must provide her a list of facilities that provide ultrasounds at no cost. This bill eliminates all of the ultrasound requirements and the requirement that the pregnant woman be told she is required to have an ultrasound performed before obtaining an abortion.

Current law prohibits a physician from performing an abortion unless he or she has admitting privileges in a hospital within 30 miles of the location where the abortion is to be performed (admitting privilege requirement). On July 8, 2013, a judge in a federal district court temporarily enjoined enforcement of this admitting privilege requirement at certain clinics until further hearings on the issue. The bill eliminates the admitting privilege requirement.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 253.095 of the statutes, as created by 2013 Wisconsin Act 37, is
2 repealed.

3 **SECTION 2.** 253.10 (3) (c) (intro.) of the statutes, as affected by 2013 Wisconsin
4 Act 37, is amended to read:

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1 253.10 (3) (c) *Informed consent.* (intro.) Except if a medical emergency exists
2 and ~~subject to sub. (3g)~~, a woman's consent to an abortion is informed only if all of
3 the following first take place:

4 **SECTION 3.** 253.10 (3) (c) 1. gg. of the statutes is created to read:

5 253.10 (3) (c) 1. gg. That fetal ultrasound imaging and auscultation of fetal
6 heart tone services are available that enable a pregnant woman to view the image
7 or hear the heartbeat of her unborn child. In so informing the woman and describing
8 these services, the physician shall advise the woman as to how she may obtain these
9 services if she desires to do so.

10 **SECTION 4.** 253.10 (3) (c) 1. gm. of the statutes, as created by 2013 Wisconsin
11 Act 37, is repealed.

12 **SECTION 5.** 253.10 (3) (c) 5. of the statutes, as affected by 2013 Wisconsin Act
13 37, is amended to read:

14 253.10 (3) (c) 5. The woman certifies in writing on a form that the department
15 shall provide, prior to performance or inducement of the abortion, that the
16 information that is required under subds. 1. and 2. has been provided to her in the
17 manner specified in subd. 3., ~~that the ultrasound required under sub. (3g) has been~~
18 ~~performed or that requirement is waived under sub. (3m) (a)~~, that she has been
19 offered the information described in par. (d) and that all of her questions, as specified
20 under subd. 4., have been answered in a satisfactory manner. The physician who is
21 to perform or induce the abortion or the qualified person assisting the physician shall
22 write on the certification form the name of the physician who is to perform or induce
23 the abortion. The woman shall indicate on the certification form who provided the
24 information to her and when it was provided ~~and who performed the ultrasound and~~
25 ~~when it was performed, unless the ultrasound requirement is waived under sub. (3m)~~

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1 ~~(a). If the ultrasound required under sub. (3g) was performed at a facility other than~~
2 ~~the facility where the physician who is to perform or induce the abortion is located,~~
3 ~~the woman shall provide to the physician who is to perform or induce the abortion~~
4 ~~the certification form described under sub. (3g) (d).~~

5 **SECTION 6.** 253.10 (3) (d) 1. of the statutes, as affected by 2013 Wisconsin Act
6 37, is amended to read:

7 253.10 **(3)** (d) 1. Geographically indexed materials that are designed to inform
8 a woman about public and private agencies, including adoption agencies, and
9 services that are available to provide information on family planning, as defined in
10 s. 253.07 (1) (a), including natural family planning information, to provide
11 ultrasound imaging services, to assist her if she has received a diagnosis that her
12 unborn child has a disability or if her pregnancy is the result of sexual assault or
13 incest and to assist her through pregnancy, upon childbirth and while the child is
14 dependent. The materials shall include a comprehensive list of the agencies
15 available, a description of the services that they offer and a description of the manner
16 in which they may be contacted, including telephone numbers and addresses, or, at
17 the option of the department, the materials shall include a toll-free, 24-hour
18 telephone number that may be called to obtain an oral listing of available agencies
19 and services in the locality of the caller and a description of the services that the
20 agencies offer and the manner in which they may be contacted. The materials shall
21 provide information on the availability of governmentally funded programs that
22 serve pregnant women and children. Services identified for the woman shall include
23 medical assistance for pregnant women and children under s. 49.47 (4) (am) and
24 49.471, the availability of family or medical leave under s. 103.10, the Wisconsin
25 works program under ss. 49.141 to 49.161, child care services, child support laws and

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1 programs and the credit for expenses for household and dependent care and services
2 necessary for gainful employment under section 21 of the Internal Revenue Code.
3 The materials shall state that it is unlawful to perform an abortion for which consent
4 has been coerced, that any physician who performs or induces an abortion without
5 obtaining the woman's voluntary and informed consent is liable to her for damages
6 in a civil action and is subject to a civil penalty, that the father of a child is liable for
7 assistance in the support of the child, even in instances in which the father has
8 offered to pay for an abortion, and that adoptive parents may pay the costs of
9 prenatal care, childbirth and neonatal care. The materials shall include
10 information, for a woman whose pregnancy is the result of sexual assault or incest,
11 on legal protections available to the woman and her child if she wishes to oppose
12 establishment of paternity or to terminate the father's parental rights. The
13 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
14 tone services are obtainable by pregnant women who wish to use them and shall
15 describe the services. The materials shall include information on services in the
16 state that are available for victims or individuals at risk of domestic abuse.

17 **SECTION 7.** 253.10 (3) (em) of the statutes, as created by 2013 Wisconsin Act 37,
18 is repealed.

19 **SECTION 8.** 253.10 (3g) of the statutes, as created by 2013 Wisconsin Act 37, is
20 repealed.

21 **SECTION 9.** 253.10 (3m) (a) (intro.) of the statutes, as affected by 2013 Wisconsin
22 Act 37, is amended to read:

23 253.10 **(3m)** (a) (intro.) A woman seeking an abortion may waive the 24-hour
24 period required under sub. (3) (c) 1. (intro.) and L. and 2. (intro.) ~~and may waive all~~
25 ~~of the requirements under sub. (3g)~~ if all of the following are first done:

