

2007 ASSEMBLY BILL 427

June 21, 2007 – Introduced by Representatives GUNDRUM, STRACHOTA, MONTGOMERY, KLEEFISCH, ALBERS, NYGREN, HAHN, GOTTLIEB, PETROWSKI, ROTH, ZIPPERER, GUNDERSON, ZIEGELBAUER, KERKMAN, PRIDEMORE, BALLWEG, BIES, HONADEL, HINES, MURSAU, VUKMIR, VAN ROY, LEMAHIEU, OWENS, PETERSEN, VOS and A. OTT, cosponsored by Senators BRESKE, LAZICH, PLALE, A. LASEE, DARLING, ROESSLER, COWLES, KEDZIE, KANAVAS, LEIBHAM, GROTHMAN and SCHULTZ. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to amend* 253.10 (3) (b), 253.10 (3) (d) 1. and 253.10 (7); and *to create*
2 253.10 (3) (c) 1. jm. and 253.10 (3) (c) 2. fm. of the statutes; **relating to:**
3 voluntary and informed consent to an abortion and requiring provision of
4 information on domestic abuse services.

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. Consent is voluntary only if it is given freely and without coercion. This bill requires that the physician who is to perform or induce the abortion determine whether or not the woman's consent is, in fact, voluntary. If the physician has reason to suspect that the woman is in danger of being physically harmed by anyone who is coercing the woman to consent to an abortion against her will, the physician must inform the woman of services for victims or individuals at risk of domestic abuse and provide her with private access to a telephone if she states that she wishes to call for assistance.

Currently, a woman's consent to an abortion is informed only if, at least 24 hours before the abortion is performed or induced, the physician or another qualified physician has in person orally provided the woman with certain information. If the pregnancy is the result of sexual assault or incest, the 24-hour period, but not the provision of information, may be waived or reduced under certain circumstances. This bill requires that the physician or other qualified physician inform the woman that she has a right to refuse to consent to an abortion, that her consent is not voluntary if anyone is coercing her to consent to an abortion against her will, and that

ASSEMBLY BILL 427

it is unlawful for the physician to perform or induce the abortion without her voluntary consent.

Currently, a woman's consent to an abortion is informed only if, at least 24 hours before the abortion is performed or induced, the physician, a qualified person assisting the physician, or another qualified physician has in person orally provided the woman with certain information. If the pregnancy is the result of sexual assault or incest, the 24-hour period, but not the provision of information, may be waived or reduced under certain circumstances. This bill requires that the physician, qualified person assisting the physician, or other qualified physician inform the woman, in person, that certain printed materials that are published and distributed by the Department of Health and Family Services (DHFS) and that must be given to the woman contain information on services available for victims or individuals at risk of domestic abuse. Additionally, the bill requires DHFS, in publishing the materials, to include information on services in the state that are available for victims or individuals at risk of domestic abuse.

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.** 253.10 (3) (b) of the statutes is amended to read:

2 253.10 **(3)** (b) *Voluntary consent.* Consent under this section to an abortion is
3 voluntary only if the consent is given freely and without coercion by any person. The
4 physician who is to perform or induce the abortion shall determine whether or not
5 the woman's consent is, in fact, voluntary. If the physician has reason to suspect that
6 the woman is in danger of being physically harmed by anyone who is coercing the
7 woman to consent to an abortion against her will, the physician shall inform the
8 woman of services for victims or individuals at risk of domestic abuse and provide
9 her with private access to a telephone if she states that she wishes to call for
10 assistance.

11 **SECTION 2.** 253.10 (3) (c) 1. jm. of the statutes is created to read:

12 253.10 **(3)** (c) 1. jm. That the woman has a right to refuse to consent to an
13 abortion, that her consent is not voluntary if anyone is coercing her to consent to an

ASSEMBLY BILL 427

1 abortion against her will, and that it is unlawful for the physician to perform or
2 induce the abortion without her voluntary consent.

3 **SECTION 3.** 253.10 (3) (c) 2. fm. of the statutes is created to read:

4 253.10 **(3)** (c) 2. fm. That the printed materials described in par. (d) contain
5 information on services available for victims or individuals at risk of domestic abuse.

6 **SECTION 4.** 253.10 (3) (d) 1. of the statutes 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), the
24 availability of family or medical leave under s. 103.10, the Wisconsin works program
25 under ss. 49.141 to 49.161, child care services, child support laws and programs and

ASSEMBLY BILL 427**SECTION 4**

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

17 **SECTION 5.** 253.10 (7) of the statutes is amended to read:

18 253.10 (7) AFFIRMATIVE DEFENSE. No person is liable under sub. (5) or (6) or
19 under s. 441.07 (1) (f), 448.02 (3) (a) or 457.26 (2) (gm) for failure under sub. (3) (c)
20 2. d. to provide the printed materials described in sub. (3) (d) to a woman or for failure
21 under sub. (3) (c) 2. d., e., f., fm., or g. to describe the contents of the printed materials
22 if the person has made a reasonably diligent effort to obtain the printed materials
23 under sub. (3) (e) and s. 46.245 and the department and the county department under
24 s. 46.215, 46.22 or 46.23 have not made the printed materials available at the time
25 that the person is required to give them to the woman.

2 (1) This act takes effect on the first day of the 3rd month beginning after
3 publication.

4 (END)