



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4729/1
SWB:all

2023 SENATE BILL 734

November 21, 2023 - Introduced by Senators ROYS, AGARD, CARPENTER, HESSELBEIN, L. JOHNSON, LARSON, SMITH, SPREITZER, TAYLOR and WIRCH, cosponsored by Representatives HONG, C. ANDERSON, J. ANDERSON, CLANCY, CONLEY, CONSIDINE, EMERSON, JACOBSON, JOERS, MADISON, MOORE OMOKUNDE, NEUBAUER, OHNSTAD, PALMERI, RATCLIFF, SHELTON, SINICKI, SNODGRASS, STUBBS and SUBECK. Referred to Committee on Licensing, Constitution and Federalism.

1 **AN ACT to repeal** 46.245, 48.067 (7m), 48.16, 48.23 (1m) (cm), 48.235 (1) (d),
2 48.255 (5), 48.257, 48.27 (9), 48.273 (4), 48.275 (3), 48.29 (3), 48.299 (1) (ar),
3 48.315 (1m), 48.37 (2), 48.373 (2) and (3), 48.375, 69.186 (1) (hf), 69.186 (1) (j),
4 69.186 (1) (k), 69.186 (1) (L), 146.89 (3r) (c) 3., 253.095, 253.10, 253.105,
5 253.107, 441.07 (1g) (f), 457.26 (2) (gm), 632.8985, 809.105, 809.14 (4), 809.62
6 (2m), 809.82 (2) (c), 895.037, 938.373 (2) and 940.15; **to renumber** 48.37 (1);
7 and **to amend** 48.23 (4) (a), 48.299 (1) (a), 48.299 (1) (ag), 48.299 (1) (b), 48.396
8 (2) (a), 48.465 (3), 66.1002 (1) (e) 1., 324.02 (8), 448.02 (3) (a), 809.10 (1) (d),
9 809.24 (4), 809.30 (1) (a), 809.30 (1) (b) 2., 809.30 (2) (a), subchapter IV (title)
10 of chapter 809 [precedes 809.40], 809.40 (title), 809.40 (1m), 809.801 (5) (c) and
11 939.75 (2) (b) 1. of the statutes; **relating to:** the elimination of certain
12 abortion-related regulations.

Analysis by the Legislative Reference Bureau

This bill repeals various abortion-related laws, including all of the following:
1. The bill eliminates certain specific procedural requirements that must be met under current law before the performance of an abortion. Current law requires

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that a person upon whom an abortion is to be performed or induced must give voluntary and informed written consent to an abortion. For the purposes of an individual's consent to an abortion, except in a medical emergency, consent is considered informed only if, before the abortion is performed or induced at a time specified in current law, the physician or an assistant has, in person, orally provided the person upon whom an abortion is to be performed with certain information and given that person certain written materials.

2. The bill eliminates the prohibition on giving a woman an abortion-inducing drug unless the physician who provides the drug for the woman performs a physical exam on the woman and is physically present in the room when the drug is given to the woman.

3. The bill eliminates the prohibition on coverage of abortions by qualified health plans offered through a health benefit exchange in this state.

4. The bill eliminates the current law requirement for minors to obtain parental consent or a waiver of parental consent in order to proceed with an abortion.

5. The bill repeals the statute that prohibits the performance of abortions by a physician who does not have admitting privileges in a hospital within 30 miles of the location where the abortion is to be performed. This statute was previously held to be unenforceable by the U.S. Court of Appeals for the 7th Circuit in *Planned Parenthood of Wis., Inc. v. Schimel*, 806 F.3d 908 (7th Cir. 2015), which affirmed a permanent injunction granted by the U.S. District Court for the Western District of Wisconsin.

6. The bill repeals the criminal penalty on a person who is not a physician and who intentionally performs an abortion. The bill also repeals the prohibition on performing an abortion after the fetus or unborn child has reached viability, as well as the prohibition on abortion if the probable postfertilization age of the fetus or unborn child is 20 or more weeks.

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

1 **SECTION 1.** 46.245 of the statutes is repealed.

2 **SECTION 2.** 48.067 (7m) of the statutes is repealed.

3 **SECTION 3.** 48.16 of the statutes is repealed.

4 **SECTION 4.** 48.23 (1m) (cm) of the statutes is repealed.

5 **SECTION 5.** 48.23 (4) (a) of the statutes is amended to read:

6 48.23 (4) (a) If a child or a parent under 18 years of age has a right to be
7 represented by counsel or is provided counsel at the discretion of the court under this

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1 section and counsel is not knowingly and voluntarily waived, the court shall refer the
2 child or parent under 18 years of age to the state public defender and counsel shall
3 be appointed by the state public defender under s. 977.08 without a determination
4 of indigency. ~~If the referral is of a child who has filed a petition under s. 48.375 (7),~~
5 ~~the state public defender shall appoint counsel within 24 hours after that referral.~~
6 ~~Any counsel appointed in a petition filed under s. 48.375 (7) shall continue to~~
7 ~~represent the child in any appeal brought under s. 809.105 unless the child requests~~
8 ~~substitution of counsel or extenuating circumstances make it impossible for counsel~~
9 ~~to continue to represent the child.~~

10 **SECTION 6.** 48.235 (1) (d) of the statutes is repealed.

11 **SECTION 7.** 48.255 (5) of the statutes is repealed.

12 **SECTION 8.** 48.257 of the statutes is repealed.

13 **SECTION 9.** 48.27 (9) of the statutes is repealed.

14 **SECTION 10.** 48.273 (4) of the statutes is repealed.

15 **SECTION 11.** 48.275 (3) of the statutes is repealed.

16 **SECTION 12.** 48.29 (3) of the statutes is repealed.

17 **SECTION 13.** 48.299 (1) (a) of the statutes is amended to read:

18 48.299 (1) (a) The general public shall be excluded from hearings under this
19 chapter ~~and from hearings by courts exercising jurisdiction under s. 48.16~~ unless a
20 public fact-finding hearing is demanded by a child through his or her counsel, by an
21 expectant mother through her counsel, or by an unborn child's guardian ad litem.
22 However, the court shall refuse to grant the public hearing in a proceeding ~~other than~~
23 ~~a proceeding under s. 48.375 (7),~~ if a parent, guardian, expectant mother, or unborn
24 child's guardian ad litem objects.

25 **SECTION 14.** 48.299 (1) (ag) of the statutes is amended to read:

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1 48.299 (1) (ag) ~~In a proceeding other than a proceeding under s. 48.375 (7), if~~
2 If a public hearing is not held, only the parties and their counsel or guardian ad litem,
3 the court-appointed special advocate for the child, the child's foster parent or other
4 physical custodian described in s. 48.62 (2), witnesses, and other persons requested
5 by a party and approved by the court may be present, except that the court may
6 exclude a foster parent or other physical custodian described in s. 48.62 (2) from any
7 portion of the hearing if that portion of the hearing deals with sensitive personal
8 information of the child or the child's family or if the court determines that excluding
9 the foster parent or other physical custodian would be in the best interests of the
10 child. ~~Except in a proceeding under s. 48.375 (7), any~~ Any other person the court
11 finds to have a proper interest in the case or in the work of the court, including a
12 member of the bar or a person engaged in the bona fide research, monitoring, or
13 evaluation of activities conducted under 42 USC 629h, as determined by the director
14 of state courts, may be admitted by the court.

15 **SECTION 15.** 48.299 (1) (ar) of the statutes is repealed.

16 **SECTION 16.** 48.299 (1) (b) of the statutes is amended to read:

17 48.299 (1) (b) ~~Except as provided in ss. 48.375 (7) (e) and s. 48.396, any person~~
18 who divulges any information which would identify the child, the expectant mother
19 or the family involved in any proceeding under this chapter shall be subject to ch.
20 785.

21 **SECTION 17.** 48.315 (1m) of the statutes is repealed.

22 **SECTION 18.** 48.37 (1) of the statutes is renumbered 48.37.

23 **SECTION 19.** 48.37 (2) of the statutes is repealed.

24 **SECTION 20.** 48.373 (2) and (3) of the statutes are repealed.

25 **SECTION 21.** 48.375 of the statutes is repealed.

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1 **SECTION 22.** 48.396 (2) (a) of the statutes is amended to read:

2 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
3 chapter and ch. 938 ~~and of courts exercising jurisdiction under s. 48.16~~ shall be
4 entered in books or deposited in files kept for that purpose only. Those records shall
5 not be open to inspection or their contents disclosed except by order of the court
6 assigned to exercise jurisdiction under this chapter and ch. 938 or as required or
7 permitted under this subsection, or sub. (3) (b) or (c) 1g., 1m., or 1r. or (6), ~~or s. 48.375~~
8 ~~(7) (e).~~

9 **SECTION 23.** 48.465 (3) of the statutes is amended to read:

10 48.465 (3) EXCEPTIONS. This section does not apply to a termination of parental
11 rights case under s. 48.43, ~~to a parental consent to abortion case under s. 48.375 (7),~~
12 or to a guardianship proceeding under s. 48.9795.

13 **SECTION 24.** 66.1002 (1) (e) 1. of the statutes is amended to read:

14 66.1002 (1) (e) 1. A physician, ~~as defined under s. 48.375 (2) (g).~~ For purposes
15 of this subdivision, “physician” means a person licensed to practice medicine and
16 surgery under ch. 448.

17 **SECTION 25.** 69.186 (1) (hf) of the statutes is repealed.

18 **SECTION 26.** 69.186 (1) (j) of the statutes is repealed.

19 **SECTION 27.** 69.186 (1) (k) of the statutes is repealed.

20 **SECTION 28.** 69.186 (1) (L) of the statutes is repealed.

21 **SECTION 29.** 146.89 (3r) (c) 3. of the statutes is repealed.

22 **SECTION 30.** 253.095 of the statutes is repealed.

23 **SECTION 31.** 253.10 of the statutes is repealed.

24 **SECTION 32.** 253.105 of the statutes is repealed.

25 **SECTION 33.** 253.107 of the statutes is repealed.

SENATE BILL 734**SECTION 34**

1 **SECTION 34.** 324.02 (8) of the statutes is amended to read:

2 324.02 (8) “Emancipated minor” ~~has the meaning given in s. 48.375 (2) (e)~~
3 means a minor who is or has been married; a minor who has previously given birth;
4 or a minor who has been freed from the care, custody and control of her parents, with
5 little likelihood of returning to the care, custody and control prior to marriage or prior
6 to reaching the age of majority.

7 **SECTION 35.** 441.07 (1g) (f) of the statutes is repealed.

8 **SECTION 36.** 448.02 (3) (a) of the statutes is amended to read:

9 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
10 and negligence in treatment by persons holding a license or certificate granted by the
11 board. An allegation that a physician has violated s. ~~253.10 (3)~~, 448.30 or 450.13 (2)
12 or has failed to mail or present a medical certification required under s. 69.18 (2)
13 within 21 days after the pronouncement of death of the person who is the subject of
14 the required certificate or that a physician has failed at least 6 times within a
15 6-month period to mail or present a medical certificate required under s. 69.18 (2)
16 within 6 days after the pronouncement of death of the person who is the subject of
17 the required certificate is an allegation of unprofessional conduct. Information
18 contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b),
19 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board.
20 Information contained in a report filed with the board under s. 655.045 (1), as created
21 by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report filed with
22 the board under s. 50.36 (3) (c) may, within the discretion of the board, be used as the
23 basis of an investigation of a person named in the report. The board may require a
24 person holding a license or certificate to undergo and may consider the results of one
25 or more physical, mental or professional competency examinations if the board

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1 believes that the results of any such examinations may be useful to the board in
2 conducting its investigation.

3 **SECTION 37.** 457.26 (2) (gm) of the statutes is repealed.

4 **SECTION 38.** 632.8985 of the statutes is repealed.

5 **SECTION 39.** 809.10 (1) (d) of the statutes is amended to read:

6 809.10 (1) (d) *Docketing statement.* The person shall file in the circuit court a
7 completed docketing statement on a form prescribed by the court of appeals. The
8 docketing statement shall accompany the notice of appeal. Docketing statements
9 need not be filed in appeals brought under s. ~~809.105~~, 809.107, 809.32, or 974.06 (7),
10 in cases under ch. 980, or in cases in which a party represents himself or herself.
11 Docketing statements need not be filed in appeals brought under s. 809.30 or 974.05,
12 or by the state or defendant in permissive appeals in criminal cases pursuant to s.
13 809.50, except that docketing statements shall be filed in cases arising under ch. 48,
14 51, 55, or 938.

15 **SECTION 40.** 809.105 of the statutes is repealed.

16 **SECTION 41.** 809.14 (4) of the statutes is repealed.

17 **SECTION 42.** 809.24 (4) of the statutes is amended to read:

18 809.24 (4) No motion for reconsideration of a court of appeals decision issued
19 under s. ~~809.105~~ or 809.107 is permitted.

20 **SECTION 43.** 809.30 (1) (a) of the statutes is amended to read:

21 809.30 (1) (a) "Final adjudication" means the entry of a final judgment or order
22 by the circuit court in a s. 971.17 proceeding, in a criminal case, or in a ch. 48, 51, 55,
23 938, or 980 case, other than a termination of parental rights case under s. 48.43, or
24 a guardianship proceeding under s. 48.9795, or a parental consent to abortion case
25 under s. ~~48.375~~ (7).

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1 **SECTION 47.** 809.40 (title) of the statutes is amended to read:

2 **809.40 (title) Rule (Appeals in termination of parental rights, ch. 799,**
3 **traffic regulation, or municipal ordinance violation, and parental consent**
4 **to abortion cases).**

5 **SECTION 48.** 809.40 (1m) of the statutes is amended to read:

6 809.40 **(1m)** An appeal ~~from an order denying a petition under s. 48.375 (7) is~~
7 ~~governed by the procedures specified in s. 809.105, and an appeal from an order or~~
8 ~~judgment under s. 48.43 is governed by the procedures specified in s. 809.107.~~

9 **SECTION 49.** 809.62 (2m) of the statutes is repealed.

10 **SECTION 50.** 809.801 (5) (c) of the statutes is amended to read:

11 809.801 **(5) (c)** *Appeals from circuit court.* A user seeking to initiate an appeal
12 under s. 809.10, 809.103, 809.104, ~~809.105~~, 809.107, 809.30, 809.32, or 809.40 shall
13 file a notice of appeal in the circuit court case appealed from as provided in that
14 section. The clerk of circuit court shall transmit the notice of appeal to the clerk of
15 the court of appeals. The docketing statement, motions under s. 809.41 (1) or (4), and
16 statement on transcript, where applicable, shall also be filed with the clerk of circuit
17 court and transmitted to the clerk of the court of appeals. Service shall be as provided
18 in s. 809.10 (1) (h).

19 **SECTION 51.** 809.82 (2) (c) of the statutes is repealed.

20 **SECTION 52.** 895.037 of the statutes is repealed.

21 **SECTION 53.** 938.373 (2) of the statutes is repealed.

22 **SECTION 54.** 939.75 (2) (b) 1. of the statutes is amended to read:

23 939.75 **(2) (b) 1.** An act committed during an induced abortion. This
24 subdivision does not limit the applicability of ss. 940.04, 940.13, ~~940.15~~ and 940.16
25 to an induced abortion.

