



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4539/1
TJD:emw

2021 SENATE BILL 591

October 4, 2021 - Introduced by Senators KAPENGA, BALLWEG, BERNIER, BRADLEY, FELZKOWSKI, JAGLER, LEMAHIEU, MARKLEIN, NASS, ROTH, STROEBEL, TESTIN and WANGGAARD, cosponsored by Representatives VOS, DUCHOW, ALLEN, CALLAHAN, DITTRICH, EDMING, GUNDRUM, KATSMA, KNODL, LOUDENBECK, MAGNAFICI, MURPHY, PENTERMAN, PLUMER, J. RODRIGUEZ, ROZAR, SCHRAA, SORTWELL, SPIROS, SUMMERFIELD, THIESFELDT, TITTL, TUSLER and WITTKE. Referred to Committee on Health.

1 **AN ACT** *to amend* 69.186 (1) (hm) and 69.186 (2) (intro.) and (a); and *to create*
2 69.186 (1) (gg) and (gm), 69.186 (1) (m), 253.10 (3) (c) 1. hr. and 253.10 (3) (d)
3 2m. of the statutes; **relating to:** informed consent regarding a certain
4 abortion-inducing drug regimen and reporting requirements for induced
5 abortions.

Analysis by the Legislative Reference Bureau

This bill requires certain information regarding an abortion-inducing drug regimen to be provided to a woman that is planning to have an abortion induced by the abortion-inducing drug regimen. The bill also adds to the information required to be reported for induced abortions.

Informed consent

Under current law, a woman upon whom an abortion is to be performed or induced must give voluntary and informed written consent to an abortion. Except in a medical emergency, 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. 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. The bill requires a physician, as part of the information that must be provided, to inform the woman,

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if she is considering or planning to have an abortion induced by an abortion-inducing drug regimen that includes mifepristone, that the ingestion of the first drug in the abortion-inducing drug regimen may not result in an immediate abortion and that, if the woman changes her mind after ingesting the first drug, the woman may be able to continue the pregnancy but time is of the essence and she should contact a physician to discuss options or consult the information provided in the materials that she is required to be given to locate a health care professional that can assist in counteracting the effects of the drug. The bill requires the Department of Health Services to include with the written materials that a woman considering an abortion must be given materials that are designed to inform a woman about the possibilities of continuing a pregnancy after ingesting an abortion-inducing drug, including contact information for resources and health care professionals that assist women in counteracting the effects of the drug and continuing their pregnancies.

Induced abortion reporting

The bill requires a hospital, clinic, or other facility in which an induced abortion is performed to report additional information in its required annual report to DHS. Under current law, the report must include, among other pieces of information, for each patient, the state, and county if Wisconsin, of residence; certain demographic information; the month and year in which the abortion was performed; the number of weeks since the patient's last menstrual period; whether the abortion was chemically or surgically induced or surgically induced following a failed chemical abortion; any resulting complications; and certain information for abortions of an unborn child capable of experiencing pain. The bill adds to the information required in the report the number of previous induced abortions, if any; whether the induced abortion was paid for by private health coverage, public assistance coverage, or self-pay; and the reason for the induced abortion as selected from a list of reasons specified in the bill. The bill also requires reporting of the specific method of a chemical or surgical abortion and includes intrauterine instillation as a selection for the method of abortion.

Under current law, DHS is required to collect the reported information in a manner that ensures anonymity of the patient who obtained the abortion, the health care provider who performed the abortion, and the hospital, clinic, or other facility in which the abortion was performed. DHS is also required to publish annual demographic summaries of the reported information except that which reveals the identity of a patient, provider, or hospital, clinic, or other facility. The bill eliminates the anonymity of the hospital, clinic, or other facility in which the abortion was performed and requires that the annual summary by DHS include information summarized by hospital, clinic, or other facility in which the abortion was performed.

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

1 **SECTION 1.** 69.186 (1) (gg) and (gm) of the statutes are created to read:

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1 69.186 (1) (gg) The number of previous induced abortions, if any.
2 (gm) Whether the induced abortion was paid for by private health coverage,
3 public assistance coverage, or self-pay.

4 **SECTION 2.** 69.186 (1) (hm) of the statutes is amended to read:

5 69.186 (1) (hm) Whether the abortion was a chemically induced abortion, and,
6 if so, whether mifepristone, misoprostol, a combination of mifepristone and
7 misoprostol, methotrexate, or another medication was used; a surgical abortion and,
8 if so, whether dilation and curettage, dilation and evacuation, hysterectomy or
9 hysterotomy, or another surgical method was used; or an intrauterine instillation
10 and whether the abortion was a surgical abortion following a failed or incomplete
11 chemical abortion.

12 **SECTION 3.** 69.186 (1) (m) of the statutes is created to read:

13 69.186 (1) (m) The reason for the induced abortion as selected from any of the
14 following reasons:

- 15 1. The pregnancy was the result of rape.
- 16 2. The pregnancy was the result of incest.
- 17 3. Economic reasons.
- 18 4. The woman does not want children or another child at this time.
- 19 5. The woman's emotional health is at stake.
- 20 6. The woman's physical health is at stake.
- 21 7. The woman will suffer substantial and irreversible impairment of a major
22 bodily function if the pregnancy continues.
- 23 8. The pregnancy resulted in fetal anomalies.
- 24 9. The reason is unknown or the woman refused to provide a reason.

25 **SECTION 4.** 69.186 (2) (intro.) and (a) of the statutes are amended to read:

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1 69.186 (2) (intro.) The department shall collect the information under sub. (1)
2 in a manner which the department shall specify and which ensures the anonymity
3 of a patient who receives an induced abortion, and a health care provider who
4 provides an induced abortion ~~and a hospital, clinic or other facility in which an~~
5 ~~induced abortion is performed.~~ The department shall publish annual demographic
6 summaries of the information obtained under this section including information
7 summarized by hospital, clinic, or other facility in which an induced abortion is
8 performed, except that the department may not disclose any information obtained
9 under this section that reveals the identity of any patient, or health care provider ~~or~~
10 ~~hospital, clinic or other facility~~ and shall ensure anonymity in all of the following
11 ways:

12 (a) The department may use information concerning the patient number under
13 sub. (1) (b) ~~or concerning the identity of a specific reporting hospital, clinic or other~~
14 ~~facility~~ for purposes of information collection only and may not reproduce or
15 extrapolate this information for any purpose.

16 **SECTION 5.** 253.10 (3) (c) 1. hr. of the statutes is created to read:

17 253.10 (3) (c) 1. hr. If the woman is considering or planning to have an abortion
18 induced by an abortion-inducing drug regimen that includes mifepristone, that the
19 ingestion of the first drug in the abortion-inducing drug regimen may not result in
20 an immediate abortion and that, if the woman changes her mind after ingesting the
21 first drug, the woman may be able to continue the pregnancy but time is of the
22 essence and she should contact a physician to discuss options or consult the
23 information provided in the materials under par. (d) to locate a health care
24 professional that can assist in counteracting the effects of the drug.

25 **SECTION 6.** 253.10 (3) (d) 2m. of the statutes is created to read:

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1 253.10 (3) (d) 2m. Materials that are designed to inform a woman about the
2 possibilities of continuing a pregnancy after ingesting an abortion-inducing drug.
3 The materials shall include contact information for resources and health care
4 professionals that assist women in counteracting the effects of the drug and
5 continuing their pregnancies.

6

(END)