2005 DRAFTING REQUEST

Bill

Received: **03/30/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **Jamie Kuhn**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - abortion**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Repeal certain abortion prohibitions

Instructions:

Same as AB 1144

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	dkennedy 03/30/2006	jdyer 03/31/2006		_____ _____			
/1			rschluet 03/31/2006	_____ _____	mbarman 03/31/2006	lnorthro 04/04/2006	

FE Sent For:

↳ NA

<END>

2005 DRAFTING REQUEST

Bill

Received: **03/30/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **Jamie Kuhn**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - abortion**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Repeal certain abortion prohibitions

Instructions:

Same as AB 1144

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	dkennedy 03/30/2006	jdyer 03/31/2006		_____ _____			
/1			rschluet 03/31/2006	_____ _____	mbarman 03/31/2006		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **03/30/2006**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing: **Jamie Kuhn**

This file may be shown to any legislator: **NO**

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - abortion**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Repeal certain abortion prohibitions

Instructions:

Same as AB 1144

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	dkennedy	1/31 jld	3/6				

FE Sent For:

<END>

Soon - In edit 3/30/06

CORRECTED COPY

4874/1

2005 – 2006 LEGISLATURE

LRB–4461/1
DAK:jld:pg

stays

2005 ASSEMBLY BILL 1144

March 21, 2006 – Introduced by Representatives BERCEAU, KESSLER, RICHARDS, BOYLE, SHILLING, TRAVIS, SINICKI, BLACK, GRIGSBY, SEIDEL, TURNER, YOUNG, POPE-ROBERTS, BENEDICT, POCAN, SHERIDAN, PARISI and WASSERMAN, cosponsored by Senators MILLER, RISSER and ERPENBACH. Referred to Committee on Judiciary.

Regen

AN ACT ***to repeal*** 940.04; and ***to amend*** 939.75 (2) (b) 1. of the statutes; **relating to:** eliminating certain laws that prohibit intentional destruction of or consenting to the destruction of the life of an unborn child or unborn quick child and prohibit causing the death of a mother by acting with intent to destroy the life of an unborn child.

Analysis by the Legislative Reference Bureau

Under current law, any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a Class H felony, for which the penalty is a fine not to exceed $10,000 or imprisonment not to exceed six years or both. "Unborn child" is defined as a human being from the time of conception until born alive. Any person, other than the mother, who intentionally destroys the life of an unborn quick child or causes the mother's death by an act done with intent to destroy the life of an unborn child is guilty of a Class E felony, for which the penalty is a fine not to exceed $50,000 or imprisonment not to exceed 15 years or both. Any pregnant woman who intentionally destroys the life of her unborn child or who consents to the destruction by another may be fined not more than $200 or imprisoned not more than six months or both, but for the same action with respect to an unborn quick child the penalty is a fine not to exceed $10,000 or imprisonment not to exceed three years and six months or both. None of these penalties apply to a therapeutic abortion that is performed by a physician; is necessary, or advised by two other physicians as necessary, to save the life of the mother; and, unless an emergency prevents, is

performed in a licensed maternity hospital. These laws were cited, in *Roe v. Wade*, 410 U. S. 113 (1973), as similar to a Texas statute that was held to violate the due process clause of the 14th amendment of the United States Constitution, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy.

Current law also prohibits intentional performance of an abortion after a fetus or unborn child reaches viability (defined as that stage of fetal development when, in the medical judgment of the attending physician based on the particular facts of the case before him or her, there is a reasonable likelihood of sustained survival of the fetus outside the womb, with or without artificial support). In *State v. Black*, 188 Wis. 2d 639 (1994), the provision in current law concerning intentional destruction of the life of an unborn quick child was held to be not impliedly repealed by the adoption of the current law that prohibits intentional performance of an abortion after a fetus or unborn child reaches viability.

Lastly, current law prohibits prosecution of and imposing or enforcing a fine or imprisonment against a woman who obtains an abortion or otherwise violates any abortion law with respect to her unborn child or fetus. Further, crimes of being a party to a crime, solicitation, and conspiracy are inapplicable to a woman who obtains an abortion or otherwise violates an abortion law with respect to her unborn child or fetus.

This bill eliminates the current laws that prohibit the intentional destruction of the life of an unborn child or an unborn quick child by a person other than the mother, that prohibit causing the death of a mother by an act done with intent to destroy the life of an unborn child, and that prohibit a pregnant woman from intentionally destroying the life of her unborn child or unborn quick child or consenting to the destruction by another. The bill does not affect current law that prohibits intentional performance of an abortion after a fetus or unborn child reaches viability.

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

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

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

5 **SECTION 2.** 940.04 of the statutes is repealed.

6 **(END)**

Northrop, Lori

From: Kuhn, Jamie
Sent: Tuesday, April 04, 2006 4:11 PM
To: LRB.Legal
Subject: Draft Review: LRB 05-4874/1 Topic: Repeal certain abortion prohibitions

Please Jacket LRB 05-4874/1 for the SENATE.