

2013 DRAFTING REQUEST

Bill

Received: **9/24/2012** Received By: **tdodge**
Wanted: **As time permits** Same as LRB:
For: **André Jacque (608) 266-9870** By/Representing: **Michael Murphy**
May Contact: Drafter: **tdodge**
Subject: **Health - abortion/maternal/child** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Jacque@legis.wi.gov**
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**
michael.duchek@.legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Sale and use of fetal body parts

Instructions:

Redraft LRB-1905 (2011 AB 214)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 10/21/2012	scalvin 10/29/2012		_____			
/1	tdodge 3/13/2013		rschluet 10/29/2012	_____	sbasford 10/29/2012		State S&L Crime
/2		scalvin	phenry	_____	srose	sbasford	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		3/14/2013	3/14/2013	_____	3/14/2013	4/25/2013	S&L Crime

FE Sent For:

↳ At
Intro.

<END>

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Vers. Drafted

Reviewed
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3/14/2013

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<END>

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/?	tdodge	(1 SAC 10/29/12)		_____	_____		

FE Sent For:

<END>

Dodge, Tamara

From: Murphy, Michael
Sent: Monday, September 24, 2012 11:53 AM
To: Dodge, Tamara
Subject: Bill Redrafts

Hello Tamara,

Could you please redraft the following bill from last year for the new session?

LRB-1905

Thanks!

MICHAEL P. MURPHY

OFFICE OF STATE REPRESENTATIVE

André Jacque

2ND ASSEMBLY DISTRICT
P.O. Box 8953 • Madison, WI 53708-8952
(608) 266-9870 • Fax: (608) 282-3602
Toll-Free: (888) 534-0002
Rep.Jacque@legis.wi.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



0143/11

LRB- (905/2) sac
TJD sbb&nwr:ff

2013

In: 10/21/12

RMNR

done. sac

2011 ASSEMBLY BILL 214

August 2, 2011 - Introduced by Representatives JACQUE, CRAIG, AUGUST, BERNIER, BIES, BROOKS, ENDSLEY, FARROW, J. FITZGERALD, HONADEL, KAPENGA, KERKMAN, KESTELL, KLEEFISCH, KLENKE, KNILANS, KNODL, KNÜDSON, KOOYENGA, KRAMER, KRUG, KUGLITSCH, T. LARSON, LEMAHIEU, LITJENS, MARKLEIN, MURTHA, NASS, NYGREN, A. OTT, PETERSEN, PETROWSKI, PETRYK, PRIDEMORE, RIPP, RIVARD, SEVERSON, SPANBAUER, STEINEKE, STRACHOTA, STROEBEL, SUDER, TAUCHEN, THIESFELDT, TIFFANY, TRANEL, VAN ROY, VOS, WYNN, ZIEGELBAUER, KAUFERT and WEININGER, cosponsored by Senators GROTHMAN, GALLOWAY, KAPANKE, LAZICH, LEIBHAM, MOULTON, WANGGAARD, ZIPPERER and KEDZIE. Referred to Committee on Criminal Justice and Corrections.

I made no changes to bill - TJD

- 1 AN ACT *to renumber and amend* 146.345 (1) (a); *to amend* 146.345 (title); and
- 2 *to create* 146.345 (1) (ag) and 146.345 (2m) of the statutes; **relating to:** sale
- 3 and use of fetal body parts and providing a penalty.

gen cat

Analysis by the Legislative Reference Bureau

Current law prohibits a person from knowingly, and for valuable consideration, acquiring, receiving, or otherwise transferring a human organ. Current federal law prohibits a person from knowingly acquiring, receiving, or otherwise transferring, in interstate commerce, any fetal tissue for valuable consideration. This bill prohibits a person from knowingly and for valuable consideration acquiring, receiving, or otherwise transferring a fetal body part in this state. A fetal body part is a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion. The bill also prohibits a person from knowingly providing, receiving, or using, for experimentation a fetal body part in this state, regardless of whether the provision, receipt, or use is for valuable consideration.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

Dodge, Tamara

From: Dodge, Tamara
Sent: Friday, December 28, 2012 12:07 PM
To: Rep. Jacque
Subject: RE: Bill Redrafts

Representative Jacque,

I'm writing about the changes to LRB-0143 (fetal body parts) suggested in the email below.

First, your draft doesn't really address human organs. The only reason that the definition of "human organ" is in the draft is to exempt "fetal body part" from it so it can be defined separately. It is excluded from the definition of human organ because your draft treats fetal body parts differently from the way human organs are treated in the statute.

The statute regarding human organs only prohibits the sale or purchase of human organs for transplant. You can change the definition of "human organ" but this is beyond the scope of your original bill and will affect part of the statute that is not shown in your bill. If you wish to include the suggested changes, we will need to discuss the language as parts of it do not comport with our drafting conventions.

Second, regarding the definition of "fetal body part," if it is your intent to include such materials as cell lines in the bill's prohibitions, I can include "or any material derived from a cell or tissue of" to the definition so it would read:

"Fetal body part" means a cell, tissue, organ, or other part of, or any material derived from any cell or tissue of, an unborn child, as defined in s. 939.75 (1), who is aborted by an induced abortion, as defined in s. 69.01 (13m).

Beyond that change, our drafting manual frowns on use of legalese like "thereof." Furthermore, I don't understand the word "subpart" in this context. It has some meaning in federal law because the federal law refers to whole organs and then "any subpart thereof." The definition of "fetal body part" in your draft refers to "a cell, tissue, organ, or other part of" an unborn child. "Part" in this context doesn't carry a connotation of size; it really means "or anything else." I don't know what a "subpart" of a cell or tissue means either. I think "subpart" would be superfluous because, after including the new language "any material derived from any cell or tissue"

Besides adding the "any material derived from" language to the definition of "fetal body part," please let me know if you want to pursue changes to the definition of "human organ" and further changes to the definition of "fetal body part" and what changes you want to pursue. I will await your response before completing the redraft.

Thank you,
Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Rep. Jacque
Sent: Tuesday, December 18, 2012 4:57 PM
To: Dodge, Tamara
Subject: RE: Bill Redrafts

Hello Tamara-

Could you please prepare a /2 draft of LRB 0143 which makes the changes suggested in the bullet points below?

Thank you,

André

1. Definitions of "Human Organ" and "Fetal Body Parts"

Section 2. 146.345 (1) (am) *"Human organ" means a kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone or skin or any other human organ specified by the department by rule. "Human organ" does not mean human whole blood, blood plasma, a blood product or a blood derivative, human semen, or a fetal body part.*

This definition seems to be less comprehensive than the federal definition (**42 U.S.C. 274E - PROHIBITION OF ORGAN PURCHASES**), which states:

The term "human organ" means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.

- My suggestion is to add to the WI state definition the text from the federal definition that is highlighted above in blue italics. I think it is important to explicitly include fetal tissue and all material **derived** from fetal tissue. Since fetal tissue parts are often "immortalized" as "cell lines" it must be made clear that fetal tissue-derived cell lines are also covered.
- As indicated by the text with the cross-through, it may be prudent to not include either "specified by the department by rule" in the WI state version or the "specified by the Secretary of Health of Human Services by regulation" from the federal version. This makes possible the re-definition of fetal tissue or its derived material. For example, the secretary would then have the power to declare fetal tissue-derived cell lines as no longer covered, or no longer "human"-derived after a certain number of cell line transformations or manipulations.
- Also, why is "or a fetal body part" listed as an exclusion? This does not make sense and is not consistent with the definition given in Section 3.

Section 3. 146.345 (1) (ag) *"Fetal body part" means a cell, tissue, organ, or other part of an unborn child, as defined in s. 939.75(1), who is aborted by an induced abortion, as defined in s. 69.01 (13m).*

- Again, I would add "or any subpart thereof, including that derived from a fetus" for the same reasons discussed above.

From: Dodge, Tamara

Sent: Monday, September 24, 2012 11:58 AM

To: Murphy, Michael

Subject: RE: Bill Redrafts

Michael,

Sure, I can handle that for you.

Tami

Tamara J. Dodge

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Thanks!

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Toll-Free: (888) 534-0002
Rep.Jacque@legis.wi.gov

Dodge, Tamara

From: Rep. Jacque
Sent: Wednesday, March 13, 2013 12:14 AM
To: Dodge, Tamara
Cc: Julian, Jamie
Subject: RE: Fetal Body Parts Bill

Hello Tamara,

Sorry, I thought I had gotten back to you earlier on this. If you could please add the "or any material derived from a cell or tissue of" language to the draft as soon as possible, I'd appreciate it.

Thanks!
André

From: Dodge, Tamara
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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-01431

TJD:sac:rs

In: 3/13/13 ^{soon}

RMR

2013 BILL

Part

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

Basford, Sarah

From: Julian, Jamie
Sent: Thursday, April 25, 2013 12:57 PM
To: LRB.Legal
Subject: Draft Review: LRB -0143/2 Topic: Sale and use of fetal body parts

Please Jacket LRB -0143/2 for the ASSEMBLY.