



## 2013 ASSEMBLY BILL 252

June 20, 2013 – Introduced by Representatives BIES, BALLWEG, BROOKS, KLEEFISCH, T. LARSON, NASS, A. OTT and SPIROS, cosponsored by Senator GROTHMAN. Referred to Committee on Criminal Justice.

1     **AN ACT** *to renumber* 157.04; *to repeal and recreate* subchapter I (title) of  
2             chapter 157 [precedes 157.01] and 157.04 (title); and *to create* 157.04 (2) and  
3             157.053 of the statutes; **relating to:** disposition of fetal remains and providing  
4             a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law contains restrictions on the final disposition of corpses and stillbirths, but does not explicitly require any particular form of final disposition of corpses or stillbirths. Current law does not contain any specific provisions with respect to the disposal or final disposition of fetal remains other than stillbirths.

This bill requires a physician who performs or induces an abortion to arrange for the final disposition of the fetal remains resulting from the abortion. The bill defines abortion as the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant or for whom there is reason to believe that she may be pregnant and with intent other than to increase the probability of a live birth, to preserve the life or health of the infant after live birth, or to remove a dead fetus. The bill expressly provides that a physician is not required to discuss the final disposition of the fetal remains with the mother before performing or inducing an abortion, and is not required to obtain authorization from the mother for the final disposition of the fetal remains upon completion of the abortion.

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The bill otherwise requires the funeral director or other person assuming responsibility for any fetal remains that are not the result of an abortion to arrange for the final disposition of those fetal remains.

For purposes of the bill, fetal remains are defined as the remains of a fetus that had completed at least 10 weeks of gestation or had reached the stage of development that, upon visual inspection of the fetus or part of the fetus, the head, torso, or extremities appear to be supported by skeletal or cartilaginous structures. Under the bill, final disposition for fetal remains resulting from an abortion may be by burial, interment, entombment, cremation, incineration, or delivery to a medical or dental school anatomy department as an anatomical gift.

A person who violates any of the provisions created in the bill may be required to forfeit up to \$1,000 for each violation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** Subchapter I (title) of chapter 157 [precedes 157.01] of the statutes  
2 is repealed and recreated to read:

3   **CHAPTER 157**

4   SUBCHAPTER I

5   HUMAN REMAINS

6           **SECTION 2.** 157.04 (title) of the statutes is repealed and recreated to read:

7           **157.04 (title) Penalties.**

8           **SECTION 3.** 157.04 of the statutes is renumbered 157.04 (1).

9           **SECTION 4.** 157.04 (2) of the statutes is created to read:

10           157.04 (2) Any person who violates s. 157.053 (2) or (3) may be required to  
11 forfeit up to \$1,000 for each violation.

12           **SECTION 5.** 157.053 of the statutes is created to read:

13           **157.053 Final disposition of fetal remains. (1)** In this section:

14           (a) "Abortion" has the meaning given in s. 253.10 (2) (a).

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1 (b) "Fetal remains" means a dead fetus or part of a dead fetus that had  
2 completed at least 10 weeks of gestation or had reached the stage of development  
3 that, upon visual inspection of the fetus or part of the fetus, the head, torso, or  
4 extremities appear to be supported by skeletal or cartilaginous structures. "Fetal  
5 remains" does not include the umbilical cord or placenta.

6 (c) "Final disposition" means the disposition of human remains by burial,  
7 interment, entombment, cremation, incineration, or delivery to a medical or dental  
8 school anatomy department under s. 157.06. "Final disposition" does not include  
9 disposition of the ashes produced by cremation or incineration of fetal remains.

10 **(2)** Subject to s. 69.18 (3) (e) and except as otherwise provided in sub. (3) (a),  
11 the funeral director or other person assuming responsibility for any fetal remains  
12 shall arrange for the final disposition of the fetal remains.

13 **(3)** (a) A physician who performs or induces an abortion shall arrange for the  
14 final disposition of the fetal remains resulting from the abortion.

15 (b) This subsection does not require a physician to discuss the final disposition  
16 of the fetal remains with the mother before performing or inducing an abortion and  
17 does not require a physician to obtain authorization from the mother for the final  
18 disposition of the fetal remains upon completion of the abortion.

19 **(END)**