



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4661/1  
TJD:skw&wlj

## 2019 ASSEMBLY BILL 590

November 7, 2019 - Introduced by Representatives BRANDTJEN, ALLEN, BROOKS, EDMING, GUNDRUM, HORLACHER, HUTTON, KRUG, MURPHY, QUINN, RAMTHUN, SCHRAA, SKOWRONSKI, SORTWELL, THIESFELDT and WICHGERS, cosponsored by Senators JACQUE, CRAIG, NASS and STROEBEL. Referred to Committee on State Affairs.

1     **AN ACT to amend** 253.12 (3) (a) 1. (intro.), 253.12 (3) (a) 1. a. and 253.12 (4) (a);  
2             **and to create** 69.186 (1) (n), 69.186 (1) (o), 146.346 and 253.12 (3) (a) 5. of the  
3             statutes; **relating to:** sale, use, and final disposition of fetal body parts,  
4             reporting of sex and fetal anomaly following induced abortion, and providing  
5             a penalty.

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### *Analysis by the Legislative Reference Bureau*

Generally, this bill prohibits certain sales and uses of fetal body parts derived from an unborn child aborted by an induced abortion and requires arrangement for final disposition of the fetal body parts by a physician who performs the induced abortion. The bill also requires reporting of certain information after an induced abortion.

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 acquiring, providing, receiving, or using a fetal body part in this state, regardless of whether the acquisition, provision, receipt, or use is for valuable consideration. A fetal body part, as defined in the bill, is tissue, an organ, or another part of an unborn child that is obtained after and as a result of an induced abortion of the unborn child occurring after the effective date of the bill. The bill's prohibition does not apply to use of a fetal body part for diagnostic or

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remedial tests, procedures, or observations which have the sole purpose of determining the life or health of the unborn child in order to provide that information to the mother or preserving the life or health of the child, unborn child, or the child's mother.

The bill requires a physician who performs an induced abortion to arrange for final disposition by burial, interment, entombment, or cremation of the fetal body parts. A person who is acting exclusively in furtherance of final disposition of a fetal body part is not guilty of violating the prohibitions in the bill.

This 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 the Department of Health Services. 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. This bill adds to the information required in the report the sex of the aborted unborn child if the sex can be determined by visual inspection, whether the aborted unborn child had a fetal anomaly, and the nature of the fetal anomaly if the aborted unborn child had one. Under the bill, DHS must incorporate information reported regarding an aborted unborn child's fetal anomaly in the existing birth defect registry.

For further information see the *state* 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.** 69.186 (1) (n) of the statutes is created to read:

2           69.186 (1) (n) The sex of the aborted unborn child if the sex can be determined  
3 by visual inspection.

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

5           69.186 (1) (o) Whether the aborted unborn child had a fetal anomaly and, if so,  
6 the nature of the fetal anomaly.

7           **SECTION 3.** 146.346 of the statutes is created to read:

8           **146.346 Fetal body parts. (1) DEFINITIONS.** In this section:

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1 (a) "Fetal body part" means tissue, an organ, or another part of an unborn child  
2 that is obtained after and as a result of an induced abortion of the unborn child that  
3 occurs after the effective date of this paragraph .... [LRB inserts date].

4 (b) "Final disposition" means the disposition of fetal body parts by burial,  
5 interment, entombment, or cremation.

6 (c) "Induced abortion" has the meaning given in s. 69.01 (13m).

7 (d) "Unborn child" has the meaning given in s. 939.75 (1).

8 **(2) PROHIBITION; EXCEPTION.** (a) No person may knowingly acquire, provide,  
9 receive, or use a fetal body part, regardless of whether the acquisition, provision,  
10 receipt, or use is for valuable consideration.

11 (b) The prohibition under par. (a) does not apply to use of a fetal body part for  
12 diagnostic or remedial tests, procedures, or observations which have the sole purpose  
13 of determining the life or health of the unborn child in order to provide that  
14 information to the mother or preserving the life or health of the child, unborn child,  
15 or the child's mother.

16 **(3) FINAL DISPOSITION.** A physician who performs or induces an induced  
17 abortion shall arrange for the final disposition of fetal body parts resulting from the  
18 induced abortion. No person is guilty of violating sub. (2) (a) if the person is acting  
19 exclusively in furtherance of final disposition of a fetal body part.

20 **(4) PENALTY.** Any person who violates this section is guilty of a Class H felony,  
21 except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the  
22 person may be fined not more than \$50,000.

23 **SECTION 4.** 253.12 (3) (a) 1. (intro.) of the statutes is amended to read:

24 253.12 **(3)** (a) 1. (intro.) Establish and maintain an up-to-date registry that  
25 documents the diagnosis in this state of any unborn child who has a fetal anomaly

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1 or any infant or child who has a birth defect, regardless of the residence of the infant  
2 or child. The department shall include in the registry information that will facilitate  
3 all of the following:

4 **SECTION 5.** 253.12 (3) (a) 1. a. of the statutes is amended to read:

5 253.12 (3) (a) 1. a. Identification of risk factors for fetal anomalies and birth  
6 defects.

7 **SECTION 6.** 253.12 (3) (a) 5. of the statutes is created to read:

8 253.12 (3) (a) 5. Incorporate information reported under s. 69.186 (1) (o) into  
9 the registry and into any reports and analysis created from the registry.

10 **SECTION 7.** 253.12 (4) (a) of the statutes is amended to read:

11 253.12 (4) (a) Make recommendations to the department regarding the  
12 establishment of a registry that documents the diagnosis in the state of an unborn  
13 child who has a fetal anomaly or an infant or child who has a birth defect, as required  
14 under sub. (3) (a) 1., the specific birth defects for which a report is required under sub.  
15 (2) on which the council unanimously decides, the rules that the department is  
16 required to promulgate under sub. (3) (a) 3., and on the general content and format  
17 of the report under sub. (2) and procedures for submitting the report. The council  
18 shall also make recommendations regarding the content of a report that, because of  
19 the application of sub. (2) (d), does not contain the name of the subject of the report.

20 **SECTION 8. Initial applicability.**

21 (1) The treatment of s. 146.346 first applies to acquisition, provision, receipt,  
22 or use of a fetal body part on the effective date of this subsection.

23

(END)