

1999 DRAFTING REQUEST**Bill**Received: **02/16/1999**Received By: **kenneda**Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**By/Representing: **Maggie (aide)**

This file may be shown to any legislator: NO

Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - public health**
Health - abortionExtra Copies: **TAY****Pre Topic:**

No specific pre topic given

Topic:Prohibit use of funds for family planning and pregnancy counseling provided to minors without parental
c o n s e n t**Instructions:**

Same as 1997 AB 965 (LRB 4263/l)

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>
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Handwritten notes: 5 12/17/99, 12/17/99, 12/17/99

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13 8/20 jlg *MRC 8/20* *MRC/JF 8/23*
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12 Wlj 7/26
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page 3

Assumptions/Background
Fiscal Estimate for AB965
April, 1998

those at the highest risk for teen pregnancy, would be denied services.

It is reasonable to assume that teen pregnancies, and therefore teen births and abortions, would increase among those denied services by APPS Board projects. However, the fiscal effect of increased teen births among those to whom project services were denied cannot be completely estimated at this time. A rough estimate from the Division of Health of the hospitalization charges alone to Medicaid for a teen birth are \$4272 for a teenager ages 12 to 14 and \$3640 for a teenager ages 15-17. This does not include any estimate of charges for pre-natal care or charges for care of the baby, and teenagers in general have a significantly higher incidence of low-birth weight babies, who often require extensive hospital stays.

Because the state is making the transition from AFDC to W-2, no estimates are available of the other public costs associated with teen childbearing. Since the estimates discussed in the paragraph above are substantially below the actual cost and since there are no estimates available of the other public costs, these amounts will not be calculated into this fiscal estimate, but such costs should perhaps be considered and more accurate estimates sought from the appropriate departments.

Finally, there are several other issues that should perhaps be considered. These include:

1. Federal Medicaid statutes and administrative rules require the provision of confidential reproductive health services to minors. Adoption of AB965 would require **providers to** ignore these rules and law, and would require DHFS to prohibit provision of services that are required under Medicaid. Could this place the state's entire federal Medicaid funding (\$1.585 billion) in jeopardy?
2. There is significant case law that has established minors' right to privacy for reproductive-related health services. AB965 would likely be challenged in court, resulting in significant litigation costs.
3. Would AB965 also outlaw provision of services to prevent or treat sexually transmitted diseases to minors without parental consent? If so, the lack of confidentiality



SOON - In edit 4/28
State of Wisconsin
1999 - 2000 LEGISLATURE

D-NOTE

LRB-2245/1
DAK.....
A
JL

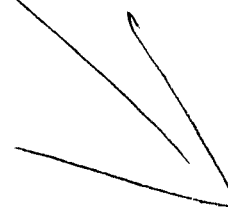
1999 BILL

1 ~~AN~~ ACT.... relating to: ???

Analysis by the Legislative Reference Bureau

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

2 (END)



1997 ASSEMBLY BILL 965

March 26, 1998 - Introduced by Representatives GROTHMAN and OWENS, cosponsored by Senator WELCH. Referred to Committee on Health.

(defined as a nonprofit corporation or a public agency)

Regen

1 **AN ACT to create 20.9276** of the statutes; relating to: prohibiting the use of
2 funds for family planning services and pregnancy counseling that is provided
3 to a minor without parental consent.

a

Analysis by the Legislative Reference Bureau

This bill prohibits state agencies and local governmental units from authorizing payments of state or local funds or federal funds passing through the state treasury to an organization that provides family planning services or pregnancy counseling to a minor without first obtaining the written consent of ~~at least~~ ~~one~~ one of the minor's parents or ~~his or her~~ legal guardian or custodian. If a state agency or local unit of government violates this prohibition, the organization to which payments were made must return the moneys paid. If an organization provides the family planning services or pregnancy counseling to a minor without the written consent, the organization may not receive any of the state, local or federal funds to provide the services for 24 months or the date of the organization's last violation, whichever is later; any grant, subsidy or other form of the funds to the organization is terminated; and the organization must return to the state agency or local unit of government all funds paid under the grant, subsidy or other funding.

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

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

INSERT A ✓

ASSEMBLY BILL 965

1 SECTION 1. 20.9276^X of the statutes is created to read:

2 **20.9276 Prohibitions on funding for services or counseling provided**

3 **without parental consent. (1)** In this section:

4 (a) "Family planning services" has the meaning given in s. 253.07 (1) (b).[✓]

5 (b) "Local governmental unit" means a city, village, town or county or an agency
6 or subdivision of a city, village, town or county.

7 (c) "Organization" means a nonprofit corporation, as defined in s. 46.93 (1m)
8 (c),[✓] or a public agency, as defined in s. 46.93 (1m) (e).[✓]

9 (d) "Program funds" means all of the following funds distributed or attributable
10 to an organization for providing family planning services or pregnancy counseling:

11 1. Funds specified under sub. (2).[✓]

12 2. Income derived from a grant, subsidy or other funding specified under sub.
13 (2)[✓] or from family planning services or pregnancy counseling funded by a grant,
14 subsidy or other funding specified under sub. (2).

15 3. Funds that are matching funds to a grant, subsidy or other funding specified
16 under sub. (2).

17 (e) "State agency" has the meaning given in s. 20.9275 (1) (g).[✓]

18 (2) No state agency or local governmental unit may authorize payment of funds
19 of this state, of any local governmental unit or, subject to sub. (4),[✓] of federal funds
20 passing through the state treasury as a grant, subsidy or other funding that wholly
21 or partially funds family planning services or pregnancy counseling, if the
22 organization that receives the funding provides family planning services or
23 pregnancy counseling to a minor without the written consent of one of the minor's
24 parents or his or her legal guardian or custodian.

ASSEMBLY BILL 965

1 (3) Subject to sub. (4), no organization that receives funds specified under sub.

2 (2) may use program funds to provide family planning services or pregnancy
3 counseling to a minor without the written consent of one of the minor's parents or his
4 or her legal guardian or custodian.

5 (4) The restriction under subs. (2) and (3) on the authorization of payment and
6 the use of federal funds passing through the state treasury shall apply only to the
7 extent that the application of the restriction does not result in the loss of any federal
8 funds.

9 (5) If an organization that receives funds specified under sub. (2) violates sub.
10 (3), all of the following shall apply:

11 (a) The organization may not receive funds specified under sub. (2) for 24
12 months after the date on which the state agency or local governmental unit last
13 authorized payment or the date on which the organization last violated sub. (3),
14 whichever is later.

15 (b) The grant, subsidy or other funding under which an organization has used
16 funds in violation of sub. (3) is terminated; and the organization shall return to the
17 state agency or local governmental unit all funds that have been paid to the
18 organization under the grant, subsidy or other funding.

19 (6) If a state agency or local governmental unit authorizes payment in violation
20 of sub. (2), the grant, subsidy or other funding under which the state agency or local
21 governmental unit authorized payment in violation of sub. (2), is terminated; and the
22 organization shall return to the state agency or local governmental unit funds that
23 have been paid to the organization under the grant, subsidy or other funding.

24 (END)

D-NOTE

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2245/lins

DAK

NO
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INSERT A

("Family planning services" are defined to mean counseling and distribution of information about family planning and referral to licensed nurse practitioners or physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning" family planning is voluntary action by individuals to prevent or aid conception that does not include performance, promotion, encouragement, counseling in favor of or referral for voluntary termination of pregnancy.)

*

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2245/1dn

DAK

JG

To Representative Grothman:

As I told your aide, Maggie, I have been concerned about issues raised in the fiscal estimate for 1995 Assembly Bill 965, on which this bill is based, as to possible unconstitutionality and contravention of federal medicaid statutes and regulations. My research has yielded the following:

1. *Possible issues of unconstitutionality:*

States may not impose blanket prohibitions on the receipt by minors of certain procedures or treatment to which the constitutional right of privacy is perceived to attach, e.g., with respect to abortion, *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, at 74 (1976), and with respect to contraceptives, *Carey v. Population Services International*, 431 U.S. 678 (1977). In *Carey*, the Court found unconstitutional a New York statute under which it was a crime for a person to sell or distribute contraceptives of any kind to a minor under the age of 16, for anyone other than a licensed pharmacist to distribute contraceptives to persons 16 or older, and for anyone to advertise or display contraceptives. The Court found that the restrictions on the sale and distribution of contraceptives burdened the minors' constitutional right of privacy to decide whether to bear children and were not justified by compelling state interests.

Generally, unless a state specifically provides otherwise, a minor is considered to be legally incapable of giving consent to his or her treatment. However, under *Bellotti v. Baird*, 443 U. S. 622 (1979), a state that requires a pregnant minor to obtain one or both parents' consent to an abortion must provide an alternative procedure whereby authorization for the abortion can be obtained.

The bill prohibits payment of funds for family planning services or pregnancy counseling to an organization that provides family planning services to a minor without the written consent of the minor's parent or legal guardian or custodian. The term "family planning services" is defined to include ". . . referral to licensed nurse practitioners . . ., licensed physicians or local health departments for . . . prescriptions for the purpose of family planning". The term "family planning" is, in turn, defined to mean voluntary action by individuals to prevent or aid conception. Thus, the bill does not directly prohibit a minor from obtaining contraceptives without parental consent, nor does it prohibit physicians from prescribing contraceptives for minors. However, the effect of the bill, in eliminating funding for organizations that provide family

planning services to minors without parental consent may be to eliminate access by some minors to a means of obtaining contraceptives that must be prescribed by a physician. To the extent that the bill prohibits access by a minor to contraceptives, by requiring parental consent to services that would provide a referral for the contraceptives and by not providing for an alternative procedure, it is conceivable that a court would find that the bill infringes on the minor's right to privacy, as applied under *Carey* and *Bellotti*. Whether any other services under the bill's definition of "family planning services" are applicable to this reasoning, would depend, I assume, on the extent to which a court might equate the other services with contraceptives in analyzing whether their deprivation would burden the minors' constitutional right of privacy to decide whether to bear children.

2. Federal Medicaid requirements:

Federal regulations set forth various requirements safeguarding information on Medicaid applicants and recipients, under 42 CFR 431.300 to 431.307. In 42 CFR 431.305 the agency (the state's lead agency for receipt of the federal moneys, i.e., in this state, the Department of Health and Family Services) must have criteria that govern the types of information about applicants and recipients that are safeguarded. This information must include, among other things, names and addresses, medical services provided and medical data, including past history of disease or disability. In 42 CFR 431.306, the agency must have criteria specifying the conditions for release and use of information about applicants and recipients and must not publish names of applicants or recipients. I do not know how these provisions affect access by minors to family planning services with or without parental consent. If you would wish, I would be happy to attempt to obtain this information from DHFS.

If I may assist you further with this draft, please do not hesitate to call.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2245/1dn
DAK:jlh:hmh

April 28, 1999

To Representative Grothman:

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If I may assist you further with this draft, please do not hesitate to call.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-O 137

Kennedy, Debora

From: Grimm, Maggie
Sent: Thursday, July 15, 1999 5:01 PM
To: Kennedy, Debora
Subject: LRB 2245/1

Thank you for your draft of LRB 2245/1.

After reviewing the draft, the following change is desired:

*The bill should be changed to require **parental notification** before a minor receives a prescription for birth control from a state-funded family planning program or service rather than parental consent.*

In summary-

Under current law, the parents of minors are not required to be notified if their children receive prescription drugs from state-funded family planning programs and services.

This bill requires state-funded family planning programs and services to notify a parent or legal guardian before a minor obtains a prescription for birth control from those state-funded family planning programs or services.

The bill does not prohibit any physician or family planning clinic from prescribing birth control to minors. However, the physician or family planning clinic would be prohibited from receiving state funds if they chose to do so without notifying a parent or legal guardian.

The bill does not require parental notification before a minor obtains testing or treatment for sexually transmitted diseases.

Thank you again. Please call with any questions 4-8486.

Maggie Grimm
Office of Representative Glenn Grothman

SOON - In edit 7/22/99

D-NOTE

1999 BILL

if the organization prescribes, dispenses or administers to a minor any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy,

to prescribe, dispense or administer birth control

notifying

Reger

- 1 AN ACT to create 20.9276 of the statutes; relating to: prohibiting the use of
- 2 funds for family planning services and pregnancy counseling that is provided
- 3 to a minor without parental consent. notification

Analysis by the Legislative Reference Bureau

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prescribes, dispenses or administers the birth control

BILL

organization is terminated; and the organization must return to the state agency or local unit of government all funds paid under the grant, subsidy or other funding.

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

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

SECTION 1. 20.9276 of the statutes is created to read:

20.9276 Prohibitions on funding for ~~services or counseling~~ provided

without parental ~~consent~~. (1) In this section:

(a) "Family planning services" has the meaning given in s. 253.07 (1) (b).

(b) "Local governmental unit" means a city, village, town or county or an agency or subdivision of a city, village, town or county,

(c) "Organization" means a nonprofit corporation, as defined in s. 46.93 (1m) (c), or a public agency, as defined in s. 46.93 (1m) (e).

(d) "Programfunds" means all of the following funds distributed or attributable to an organization for providing family planning services or pregnancy counseling:

1. Funds specified under sub. (2).

2. Income derived from a grant, subsidy or other funding specified under sub. (2) or from family planning services or pregnancy counseling funded by a grant, subsidy or other funding specified under sub. (2).

3. Funds that are matching funds to a grant, subsidy or other funding specified under sub. (2).

(e) "State agency" has the meaning given in s. 20.9275 (1) (g).

(2) No state agency or local governmental unit may authorize payment of funds of this state, of any local governmental unit or, subject to sub. (4), of federal funds passing through the state treasury as a grant, subsidy or other funding that wholly

to a minor (B)

birth control (B)

notification (B)

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BILL

SECTION 1

prescribes, dispenses or administers any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy

1 or partially funds family planning services or pregnancy counseling, if the
2 organization that receives the funding ~~provides family planning services or~~
3 ~~pregnancy counseling to a minor~~ without the ~~written consent of~~ one of the minor's
4 parents or his or her legal guardian or custodian.

first notifying

5 (3) Subject to sub. (4), no organization that receives funds specified under sub.

6 (2) may use program funds to ~~provide family planning services or pregnancy~~
7 ~~counseling~~ to a minor without the ~~written consent of~~ one of the minor's parents or his
8 or her legal guardian or custodian.

any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy

9 (4) The restriction under subs. (2) and (3) on the authorization of payment and

10 the use of federal funds passing through the state treasury shall apply only to the
11 extent that the application of the restriction does not result in the loss of any federal
12 funds.

13 (5) If an organization that receives funds specified under sub. (2) violates sub.
14 (3), all of the following shall apply:

15 (a) The organization may not receive funds specified under sub. (2) for 24
16 months after the date on which the state agency or local governmental unit last
17 authorized payment or the date on which the organization last violated sub. (3),
18 whichever is later.

19 (b) The grant, subsidy or other funding under which an organization has used
20 funds in violation of sub. (3) is terminated; and the organization shall return to the
21 state agency or local governmental unit all funds that have been paid to the
22 organization under the grant, subsidy or other funding.

23 (6) If a state agency or local governmental unit authorizes payment in violation
24 of sub. (2), the grant, subsidy or other funding under which the state agency or local
25 governmental unit authorized payment in violation of sub. (2), is terminated; and the

BILL

1 organization shall return to the state agency or local governmental unit funds that
2 have been paid to the organization under the grant, subsidy or other funding.

3 (END)

D-NOTE

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2245/2dn

DAK;jlg:hmh

Wij

To Representative Grothman:

1. Please check this bill's wording carefully to determine that it does what you intend; in particular, note that the effect of the wording is that an organization that receives family planning funding will have an adverse consequence, under the bill, if the organization provides birth control to a minor without parental notification, even if that provision is done with non-family planning funding, i.e., with private or third-party funding.

2. I did not draft a provision stating that parental notification is not required before a minor obtains testing or treatment for sexually transmitted diseases, because the dispensing of birth control medication or devices is not related to this testing or treatment and, thus, the bill does not affect the testing or treatment in a way that requires this clarification.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2245/2dn
DAK:jlg&wlj:km

July 27, 1999

To Representative Grothman:

1. Please check this bill's wording carefully to determine that it does what you intend; in particular, note that the effect of the wording is that an organization that receives family planning funding will have an adverse consequence, under the bill, if the organization provides birth control to a minor without parental notification, even if that provision is done with non-family planning funding, i.e., with private or third-party funding.

2. I did not draft a provision stating that parental notification is not required before a minor obtains testing or treatment for sexually transmitted diseases, because the dispensing of birth control medication or devices is not related to this testing or treatment and, thus, the bill does not affect the testing or treatment in a way that requires this clarification.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

8/11/99

- 2245/2

From Maggie (Grothman's side) : Redraft :

Delete s. 20.9276 (4)

DAK explained that this provision protects against possible conflict with federal Medicaid law; Maggie asked that I delay the redraft for a few days

RMR

1999 BILL

1 AN ACT *t* *Regen* to create 20.9276 of the statutes; relating to: prohibiting the use of
 2 funds for family planning services and pregnancy counseling to prescribe,
 3 dispense or administer birth control to a minor without parental notification.

Analysis by the Legislative Reference Bureau

This bill prohibits state agencies and local governmental units from authorizing payments of state or local funds or federal funds passing through the state treasury to an organization (defined as a nonprofit corporation or a public agency) that provides family planning services or pregnancy counseling to a minor if the organization prescribes, dispenses or administers to a minor any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy, without first notifying one of the minor's parents or legal guardian or custodian. ("Family planning services" are defined to mean counseling **and** distribution of information about family planning and referral to licensed nurse practitioners or physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning; "family planning" is voluntary action by individuals to prevent or aid conception that does not include performance, promotion, encouragement, counseling in favor of or referral for voluntary termination of pregnancy.) If a state agency or local unit of government violates this prohibition, the organization to which payments were made must return the moneys paid. If an organization prescribes, dispenses or administers the birth control to a minor without the required notification, the organization may not receive any of the state, local or

BILL

federal funds to provide the services for 24 months or the date of the organization's last violation, whichever is later; any grant, subsidy or other form of the funds to the organization is terminated; and the organization must return to the state agency or local unit of government all funds paid under the grant, subsidy or other funding.

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

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

SECTION 1. 20.9276 of the statutes is created to read:

20.9276 Prohibitions on funding for birth control provided to a minor without parental notification. (1) In this section:

(a) "Family planning services" has the meaning given in s. 253.07 (1) (b).

(b) "Local governmental unit" means a city, village, town or county or an agency or subdivision of a city, village, town or county.

(c) "Organization" means a nonprofit corporation, as defined in s. 46.93 (1m) (c), or a public agency, as defined in s. 46.93 (1m) (e).

(d) "Program funds" means all of the following funds distributed or attributable to an organization for providing family planning services or pregnancy counseling:

1. Funds specified under sub. (2).

2. Income derived from a grant, subsidy or other funding specified under sub. (2) or from family planning services or pregnancy counseling funded by a grant, subsidy or other funding specified under sub. (2).

3. Funds that are matching funds to a grant, subsidy or other funding specified under sub. (2).

(e) "State agency" has the meaning given in s. 20.9275 (1) (g).

(2) No state agency or local governmental unit may authorize payment of funds of this state, of any local governmental unit or, subject to sub. (a), of federal funds

BILL

1 passing through the state treasury as a grant, subsidy or other funding that wholly
2 or partially funds family planning services or pregnancy counseling, if the
3 organization that receives the funding prescribes, dispenses or administers to a
4 minor any medicine, drug or device that is used as a method of birth control or is
5 intended to prevent pregnancy without first notifying one of the minor's parents or
6 his or her legal guardian or custodian.

7 ~~Subject to sub. (4),~~ (3) no organization that receives funds specified under sub.
8 (2) may use program funds to prescribe, dispense or administer to a minor any
9 medicine, drug or device that is used as a method of birth control or is intended to
10 prevent pregnancy, without first notifying one of the minor's parents or his or her
11 legal guardian or custodian.

12 ~~(4) The restriction under subs. (2) and (3) on the authorization of payment and~~
13 ~~the use of federal funds passing through the state treasury shall apply only to the~~
14 ~~extent that the application of the restriction does not result in the loss of any federal~~
15 ~~funds.~~

16 (5) (4) If an organization that receives funds specified under sub. (2) violates sub.
17 (3), all of the following shall apply:

18 (a) The organization may not receive funds specified under sub. (2) for 24
19 months after the date on which the state agency or local governmental unit last
20 authorized payment or the date on which the organization last violated sub. (3),
21 whichever is later.

22 (b) The grant, subsidy or other funding under which an organization has used
23 funds in violation of sub. (3) is terminated; and the organization shall return to the
24 state agency or local governmental unit all funds that have been paid to the
25 organization under the grant, subsidy or other funding.

BILL

SECTION 1

1 ~~(5)~~ (6) If a state agency or local governmental unit authorizes payment in violation
2 of sub. (2), the grant, subsidy or other funding under which the state agency or local
3 governmental unit authorized payment in violation of sub. (2), is terminated; and the
4 organization shall return to the state agency or local governmental unit funds that
5 have been paid to the organization under the grant, subsidy or other funding.

6 (END)

Kennedy, Debora

From: Grimm, Maggie
Sent: Tuesday, November 09, 1999 8:42 AM
To: Kennedy, Debora

Debora:

Rep. Grothman requests the following changes to LRB 2245/3:

1. parental notification to be made via registered mail with a return receipt.
2. Any services could not be given to the minor until 5 business days after receiving the return receipt.

Is there need of a provision exempting emancipated minors?

Thank you very much for your time. Please call 264-8486 with any questions regarding this draft revision.

Maggie Grimm
Office of Representative Grothman

11/9 From Maggie: "Registered" is in error; should be
"certified, with restricted delivery".

registered - insured up to \$25,000
via certified mail w/ restricted delivery - delivery only
to addressee or addressee's
auth. agent

SOON - In edit 9/11

1999 BILL

performing several actions related to ✓

Regen

- 1 AN ACT to create 20.9276 of the statutes; relating to: prohibiting the use of
- 2 funds for family planning services and pregnancy counseling to prescribe,
- 3 dispense or administer birth control to a minor without parental notification.

Analysis by the Legislative Reference Bureau

This bill prohibits state agencies and local governmental units from authorizing payments of state or local funds or federal funds passing through the state treasury to an organization (defined as a nonprofit corporation or a public agency) that provides family planning services or pregnancy counseling to a minor if the organization prescribes, dispenses or administers to a minor any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy, without first notifying one of the minor's parents or legal guardian or custodian. ("Family planning services" are defined to mean counseling and distribution of information about family planning and referral to licensed nurse practitioners or physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning; "family planning" is voluntary action by individuals to prevent or aid conception that does not include performance, promotion, encouragement, counseling in favor of or referral for voluntary termination of pregnancy.), ~~if~~ a state agency or local unit of government violates this prohibition, the organization to which payments were made must return the moneys paid. If an organization prescribes, dispenses or administers the birth control to a minor without the required notification, the organization may not receive any of the state, local or

legal ✓

INSERT ANAL ✓

BILL

federal funds to provide the services for 24 months or the date of the organization's last violation, whichever is later; any grant, subsidy or other form of the funds to the organization is terminated; and the organization must return to the state agency or local unit of government all funds paid under the grant, subsidy or other funding.

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

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

1 **SECTION 1.** 20.9276 of the statutes is created to read:

2 **20.9276 Prohibitions on funding for birth control provided to a minor**
3 **without parental notification. (1)** In this section:

4 (a) "Family planning services" has the meaning given in s. 253.07 (1) (b).

5 (b) "Local governmental unit" means a city, village, town or county or an agency
6 or subdivision of a city, village, town or county.

7 (c) "Organization" means a nonprofit corporation, as defined in s. 46.93 (1m)
8 (c), or a public agency, as defined in s. 46.93 (1m) (e).

9 (d) "Program funds" means all of the following funds distributed or attributable
10 to an organization for providing family planning services or pregnancy counseling:

11 1. Funds specified under sub. (2).

12 2. Income derived from a grant, subsidy or other funding specified under sub.
13 (2) or from family planning services or pregnancy counseling funded by a grant,
14 subsidy or other funding specified under sub. (2).

15 3. Funds that are matching funds to a grant, subsidy or other funding specified
16 under sub. (2).

17 (e) "State agency" has the meaning given in s. 20.9275 (1) (g).

18 (2) No state agency or local governmental unit may authorize payment of funds
19 of this state, of any local governmental unit or of federal funds passing through the

BILL

1 state treasury as a grant, subsidy or other funding that wholly or partially funds
2 family planning services or pregnancy counseling, if the organization that receives
3 the funding prescribes, dispenses or administers to a minor any medicine, drug or
4 device that is used as a method of birth control or is intended to prevent pregnancy
5 without first notifying one of the minor's parents or his or her legal guardian or
6 custodian.

7 (3) No organization that receives funds specified under sub. (2) may use
8 program funds to prescribe, dispense or administer to a minor any medicine, drug
9 or device that is used as a method of birth control or is intended to prevent pregnancy,

10 ~~without first notifying one of the minor's parents or his or her legal guardian or~~
11 ~~custodian.~~ INSERT 3-11 ✓

12 (4) If an organization that receives funds specified under sub. (2) violates sub.
13 (3), all of the following shall apply:

14 (a) The organization may not receive funds specified under sub. (2) for 24
15 months after the date on which the state agency or local governmental unit last
16 authorized payment or the date on which the organization last violated sub. (3),
17 whichever is later.

18 (b) The grant, subsidy or other funding under which an organization has used
19 funds in violation of sub. (3) is terminated; and the organization shall return to the
20 state agency or local governmental unit all funds that have been paid to the
21 organization under the grant, subsidy or other funding.

22 (5) If a state agency or local governmental unit authorizes payment in violation
23 of sub. (2), the grant, subsidy or other funding under which the state agency or local
24 governmental unit authorized payment in violation of sub. (2), is terminated; and the

BILL

1 organization shall return to the state agency or local governmental unit funds that
2 have been paid to the organization under the grant, subsidy or other funding.

3 (END)

^{not} The organization must notify the minor's parent, guardian or custodian by certified mail, with restricted delivery; must receive a return receipt for the notice delivery that is signed by the addressee or his or her agent; and may not prescribe, dispense or administer the medicine, drug or device to the minor until five business days have elapsed following the date on which the organization received the return receipt.

Under the bill, if NO

INSERT 3-11

^{NO}
¶ unless all of the following has first taken place:

¶(a) The organization has notified by certified mail, with restricted delivery, one of the minor's parents or his or her guardian or legal custodian of the organization's intent to prescribe, dispense or administer the medicine, drug or device to the minor.

¶(b) The organization has received a return receipt for delivery ^{of} the notification specified in par. (a), signed by the addressee requested or his or her agent.

¶(c) Five business days, as defined in [✓]s. 562.01 (3m), following the day on which the organization received the return receipt specified in par. (b) have elapsed ^{(NO} ^{¶)}

Williams, Landon

To: Grimm, Maggie
cc: Kennedy, Debora
Subject: 99-2245/4 per your request



99-2245/4

Landon T. Williams

Legislative Program Assistant
Legislative Reference Bureau
100 N. Hamilton
(608) 266-3561
landon.williams@legis.state.wi.us

Kennedv. Debora

From: Grimm, Maggie
Sent: Wednesday, December 15, 1999 3:01 PM
To: Kennedy, Debora
Subject: Request for Changes to LRB 2245/4

Dear Debora:

Could you please change LRB 2245 to only deal with prescription drugs or prescription devices?

Here is the section of a federal bill we are mimicking:

(b) CONTRACEPTIVE DRUGS AND DEVICES- None of the funds appropriated in any Federal Act for any fiscal year for carrying out title X of the Public Health Service Act may be made available to **any family planning project under section 1001 of such title if any provider of services in the project knowingly provides** **contraceptive prescription drugs or contraceptive prescription devices**

Thank YOU so much for all your work on this bill!!!

SOON - In edit 12/16

1999 BILL

a contraceptive prescription drug or device ✓

Regen

1 **AN ACT to create 20.9276** of the statutes; **relating to:** prohibiting the use of
2 funds for family planning services and pregnancy counseling to prescribe,
3 dispense or administer ~~birth control~~ to a minor without parental notification.

Analysis by the Legislative Reference Bureau

This bill prohibits state agencies and local governmental units from authorizing payments of state or local funds or federal funds passing through the state treasury to an organization (defined as a nonprofit corporation or a public agency) that provides family planning services or pregnancy counseling to a minor if the organization prescribes, dispenses or administers to a minor ~~any medicine, drug or device that is used as a method of birth control or is intended to prevent pregnancy,~~ without first performing several actions related to notifying one of the minor's parents or guardian or legal custodian. ("Family planning services" are defined to mean counseling and distribution of information about family planning and referral to licensed nurse practitioners or physicians or local health departments for consultation, examination, medical treatment and prescriptions for the purpose of family planning; "family planning" is voluntary action by individuals to prevent or aid conception that does not include performance, promotion, encouragement, counseling in favor of or referral for voluntary termination of pregnancy.) The organization must notify the minor's parent, guardian or custodian by certified mail, with restricted delivery; must receive a return receipt for the notice delivery that is signed by the addressee or his or her agent; and may not prescribe, dispense or administer the ~~medicine~~ drug or device to the minor until five business days have elapsed following the date on which the organization received the return receipt.

contraceptive prescription ✓
5

BILL

Under the bill, if a state agency or local unit of government violates this prohibition, the organization to which payments were made must return the moneys paid. If an organization prescribes, dispenses or administers the birth control to a minor without the required notification, the organization may not receive any of the state, local or federal funds to provide the services for 24 months or the date of the organization's last violation, whichever is later; any grant, subsidy or other form of the funds to the organization is terminated; and the organization must return to the state agency or local unit of government all funds paid under the grant, subsidy or other funding.

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

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6 or subdivision of a city, village, town or county.

7 (c) "Organization" means a nonprofit corporation, as defined in s. 46.93 (1m)
8 (c), or a public agency, as defined in s. 46.93 (1m) (e).

9 (d) "Program funds" means all of the following funds distributed or attributable
10 to an organization for providing family planning services or pregnancy counseling:

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12 2. Income derived from a grant, subsidy or other funding specified under sub.
13 (2) or from family planning services or pregnancy counseling funded by a grant,
14 subsidy or other funding specified under sub. (2).

15 3. Funds that are matching funds to a grant, subsidy or other funding specified
16 under sub. (2).

BILL

1 (e) "State agency" has the meaning given in s. 20.9275 (1) (g).

2 (2) No state agency or local governmental unit may authorize payment of funds
3 of this state, of any local governmental unit or of federal funds passing through the
4 state treasury as a grant, subsidy or other funding that wholly or partially funds
5 family planning services or pregnancy counseling, if the organization that receives
6 the funding prescribes, dispenses or administers to a minor ~~any medicine, drug or~~
7 ~~device that is used as a method of birth control or is intended to prevent pregnancy~~

8 without first notifying one of the minor's parents or his or her legal guardian or
9 custodian. *a contraceptive prescription drug or a*
contraceptive prescription device ✓

10 (3) No organization that receives funds specified under sub. (2) may use
11 program funds to prescribe, dispense or administer to a minor ~~any medicine, drug~~
12 ~~or device that is used as a method of birth control or is intended to prevent pregnancy,~~
13 unless all of the following has first taken place:

14 (a) The organization has notified by certified mail, with restricted delivery, one
15 of the minor's parents or his or her guardian or legal custodian of the organization's
16 intent to prescribe, dispense or administer the ~~medicine, drug or device~~ to the minor.

17 (b) The organization has received a return receipt for delivery of the
18 notification specified in par. (a), signed by the addressee requested or his or her
19 agent.

20 (c) Five business days, as defined in s. 562.01 (3m), following the day on which
21 the organization received the return receipt specified in par. (b) have elapsed.

22 (4) If an organization that receives funds specified under sub. (2) violates sub.
23 (3), all of the following shall apply:

24 (a) The organization may not receive funds specified under sub. (2) for 24
25 months after the date on which the state agency or local governmental unit last

✓ *contraceptive prescription drug or*
contraceptive prescription device

BILE

1 authorized payment or the date on which the organization last violated sub. (3),
2 whichever is later.

3 (b) The grant, subsidy or other funding under which an organization has used
4 funds in violation of sub. (3) is terminated; and the organization shall return to the
5 state agency or local governmental unit all funds that have been paid to the
6 organization under the grant, subsidy or other funding.

7 (5) If a state agency or local governmental unit authorizes payment in violation
8 of sub. (2), the grant, subsidy or other funding under which the state agency or local
9 governmental unit authorized payment in violation of sub. (2), is terminated; and the
10 organization shall return to the state agency or local governmental unit funds that
11 have been paid to the organization under the grant, subsidy or other funding.

12

(END)

Williams, Landon

To: Grimm, Maggie
cc: Kennedy, Debora
Subject: 99-2245/5 per your request



99-2245/5

Landon T. Williams

Legislative Program Assistant
Legislative Reference Bureau
100 N. Hamilton
(608) 266-3561
landon.williams@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 12/17/1999

To: Representative Grothman

Relating to LRB drafting number: LRB-2245

Topic

Prohibit use of funds for family planning and pregnancy counseling provided to minors without parental consent

Subject(s)

Health - public health, Health - abortion

1. JACKET the draft for introduction _____ (A - - - - & g - - -)

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Debora A. Kennedy, Managing Attorney
Telephone: (608) 266-O 137