

2003 SENATE BILL 28

February 12, 2003 – Introduced by Senators KEDZIE, REYNOLDS, SCHULTZ, A. LASEE, LAZICH, STEPP, ROESSLER, COWLES, S. FITZGERALD and KANAVAS, cosponsored by Representatives M. WILLIAMS, LADWIG, RHOADES, JENSEN, ALBERS, WEBER, STONE, KRAWCZYK, PETROWSKI, HINES, BIES, SUDER, HAHN, OLSEN, SERATTI, AINSWORTH, TOWNSEND, OTT, HUNDERTMARK, NISCHKE, M. LEHMAN, GIELOW, OWENS, MCCORMICK, GUNDERSON, KERKMAN, LOEFFELHOLZ, J. FITZGERALD, VAN ROY, VRAKAS, FREESE, JESKEWITZ, D. MEYER and LOTHIAN. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to amend* 253.10 (3) (c) 2. c., 253.10 (3) (c) 4. and 253.10 (3) (d) 1. of the
2 statutes; **relating to:** requiring a woman upon whom an abortion is to be
3 performed or induced to be informed at least 24 hours before the abortion is
4 performed or induced that she may anonymously and with immunity from
5 liability relinquish custody of her newborn child to a law enforcement officer,
6 an emergency medical technician, or a hospital staff member when the newborn
7 child is 72 hours old or younger.

Analysis by the Legislative Reference Bureau

Under current law, a parent of a child who is 72 hours old or younger (newborn child) may relinquish custody of the newborn child to a law enforcement officer, emergency medical technician, or hospital staff member anonymously and with immunity from civil or criminal liability for any act or omission in connection with that relinquishment. If the court assigned to exercise jurisdiction under the Children's Code (juvenile court) finds that the custody of a newborn child has been relinquished as provided under current law, the juvenile court may terminate the parental rights of the parent who relinquished custody of the newborn child, thereby freeing the newborn child for adoption.

Under current law, an abortion may not be performed or induced unless the woman upon whom the abortion is to be performed or induced has given her

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voluntary and informed written consent to the performance or inducement of the abortion. Subject to certain exceptions, a woman's consent to an abortion is informed only if, at least 24 hours before the abortion is to be performed or induced, the woman is informed, among other things, that she has the legal right to continue her pregnancy and keep the child, to place the child in foster care, or to place the child for adoption and is given certain printed materials published by the Department of Health and Family Services (DHFS). Those materials include a listing of agencies and services that are available to assist a woman through pregnancy, upon childbirth, and while the child is dependent and a statement that if the child is adopted the adoptive parents may pay the costs of prenatal care, childbirth, and neonatal care. Current law also requires the woman to be provided with an opportunity to ask questions, including questions concerning foster care and adoption, and to receive the information requested.

This bill requires a woman on whom an abortion is to be performed or induced to be informed, at least 24 hours before the performance or inducement of the abortion, that she has the legal right to relinquish custody of her newborn child to a law enforcement officer, emergency medical technician, or hospital staff member anonymously and with immunity from civil or criminal liability for any act or omission in connection with that relinquishment. The bill also requires DHFS to include that information in the printed materials published by DHFS that must be given to a woman at least 24 hours before an abortion is performed or induced. Finally, the bill requires a woman upon whom an abortion is to be performed or induced to be provided with an opportunity to ask questions concerning that right to relinquish custody of her newborn child and to receive the information requested.

For further information see the *state* 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.** 253.10 (3) (c) 2. c. of the statutes is amended to read:
- 2 253.10 (3) (c) 2. c. That the woman has a legal right to continue her pregnancy
- 3 and to keep the child; to place the child in a foster home or treatment foster home for
- 4 6 months or to petition a court for placement of the child in a foster home, treatment
- 5 foster home or group home or with a relative; to relinquish custody of the child under
- 6 s. 48.195; or to place the child for adoption under a process that involves court
- 7 approval both of the voluntary termination of parental rights and of the adoption.
- 8 **SECTION 2.** 253.10 (3) (c) 4. of the statutes is amended to read:

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1 253.10 (3) (c) 4. Whoever provides the information that is required under subd.
2 1. or 2., or both, provides adequate opportunity for the woman to ask questions,
3 including questions concerning the pregnancy, her unborn child, abortion, foster
4 care, relinquishment of custody of the child under s. 48.195, and adoption, and
5 provides the information that is requested or indicates to the woman where she can
6 obtain the information.

7 **SECTION 3.** 253.10 (3) (d) 1. of the statutes is amended to read:

8 253.10 (3) (d) 1. Geographically indexed materials that are designed to inform
9 a woman about public and private agencies, including adoption agencies, and
10 services that are available to provide information on family planning, as defined in
11 s. 253.07 (1) (a), including natural family planning information, to provide
12 ultrasound imaging services, to assist her if she has received a diagnosis that her
13 unborn child has a disability or if her pregnancy is the result of sexual assault or
14 incest, and to assist her through pregnancy, upon childbirth, and while the child is
15 dependent. The materials shall include a comprehensive list of the agencies
16 available, a description of the services that they offer, and a description of the
17 manner in which they may be contacted, including telephone numbers and
18 addresses, or, at the option of the department, the materials shall include a toll-free,
19 24-hour telephone number that may be called to obtain an oral listing of available
20 agencies and services in the locality of the caller and a description of the services that
21 the agencies offer and the manner in which they may be contacted. The materials
22 shall provide information on the availability of governmentally funded programs
23 that serve pregnant women and children. Services identified for the woman shall
24 include medical assistance for pregnant women and children under s. 49.47 (4) (am),
25 the availability of family or medical leave under s. 103.10, the Wisconsin works

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1 program under ss. 49.141 to 49.161, child care services, child support laws and
2 programs, and the credit for expenses for household and dependent care and services
3 necessary for gainful employment under section 21 of the ~~internal revenue code~~
4 Internal Revenue Code. The materials shall state that it is unlawful to perform an
5 abortion for which consent has been coerced, that any physician who performs or
6 induces an abortion without obtaining the woman's voluntary and informed consent
7 is liable to her for damages in a civil action and is subject to a civil penalty, that the
8 father of a child is liable for assistance in the support of the child, even in instances
9 in which the father has offered to pay for an abortion, that the woman may relinquish
10 custody of the child under s. 48.195, and that adoptive parents may pay the costs of
11 prenatal care, childbirth, and neonatal care. The materials shall include
12 information, for a woman whose pregnancy is the result of sexual assault or incest,
13 on legal protections available to the woman and her child if she wishes to oppose
14 establishment of paternity or to terminate the father's parental rights. The
15 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
16 tone services are obtainable by pregnant women who wish to use them and shall
17 describe the services.

SECTION 4. Nonstatutory provisions.

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19 (1) INFORMED CONSENT TO ABORTION; UPDATED PRINTED INFORMATION. By no later
20 than 60 days after the effective date of this subsection, the department of health and
21 family services shall publish and distribute under section 253.10 (3) (d) (intro.) of the
22 statutes a version of the materials described in section 253.10 (3) (d) 1. of the
23 statutes, as affected by this act, that is updated to include a statement that the
24 woman may relinquish custody of her child under section 48.195 of the statutes.

SECTION 5. Initial applicability.

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