

2015 DRAFTING REQUEST

Bill

Received: **10/23/2015** Received By: **gmalaise**
 For: **Janet Bewley (608) 266-3510** Same as LRB:
 May Contact: By/Representing: **Lori**
 Subject: **Employ Priv - family leave** Drafter: **gmalaise**
Insurance - health Addl. Drafters: **amckean**
Insurance - other insurance

Extra Copies:

Submit via email: **YES**
 Requester's email: **Sen.Bewley@legis.wi.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Bone marrow or living organ donors; coverage under family and medical leave law; insurance discrimination prohibited

Instructions:

See attached--redraft -3284, but also include bone marrow donors

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	amckean 10/26/2015	kmochal 10/26/2015	_____			
/P1	gmalaise 10/30/2015		_____	srose 10/26/2015		State S&L
/1		kmochal 10/30/2015	_____	sbasford 10/30/2015	sbasford 11/20/2015	State S&L

FE Sent For:

*at intro
12/29/15*

<END>



State of Wisconsin
2015 - 2016 LEGISLATURE

-3682/P1

LRB-32847
GMM&AJM:klm

2015 BILL

[IN. 10/26
OUR 10/27
Thanks!]

bone marrow or

Regen.
Cat.

1 AN ACT to amend 103.10 (1) (g) (intro.), 625.12 (1) (e), 625.12 (2) and 628.34 (3)
2 (a); and to create 631.97 of the statutes; relating to: inclusion of recovery from
3 organ donation surgery as a serious health condition for which an employee
4 may take leave from employment under the family and medical leave law and
5 prohibiting certain insurance practices on the basis of a person being a living
6 organ donor. or bone marrow donor

Analysis by the Legislative Reference Bureau

Introduction

bone marrow or

This bill includes recovery from organ donation surgery as a serious health condition for which an employee may take leave from employment under the family and medical leave law. The bill also prohibits insurers from refusing to provide or renew coverage, canceling coverage, setting rates, or otherwise discriminating in the terms of a life, long-term care, or income continuation insurance policy on the basis of a person's status as a living organ donor.

Family and medical leave

bone marrow or

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state (employer) must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week

BILL

period (employee) to take: 1) two weeks of medical leave in a 12-month period when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties; and 2) two weeks of family leave in a 12-month period to care for a child, spouse, domestic partner, or parent who has a serious health condition. Current law defines "serious health condition" for purposes of the family and medical leave law as a disabling physical or mental illness, injury, impairment, or condition involving inpatient care in a hospital, nursing home, or hospice or outpatient care that requires continuing treatment or supervision by a health care provider.

(use 3 times)
bone marrow or

This bill includes the condition of being in recovery from surgery related to donating a human organ in the definition of "serious health condition" for purposes of the family and medical leave law. As such, the bill permits an employee to take leave from employment for the following reasons: 1) when the employee is in recovery from surgery related to donating a human organ and is unable to perform his or her employment duties; or 2) to care for a child, spouse, domestic partner, or parent who is in recovery from surgery related to donating a human organ.

Insurance discrimination

This bill prohibits an insurer from refusing to provide or renew coverage to a person, canceling a person's coverage, or limiting a person's coverage under a life insurance policy, long-term care insurance policy, or income continuation insurance policy (collectively, policy) on the basis that the person is a living organ donor. Under the bill, insurers may not preclude a person from donating an organ as a condition of issuing a policy to the person. The bill also prohibits an insurer from using the status of a person as a living organ donor as a factor in determining rates or any other aspect of insurance coverage under a policy.

or bone marrow
or bone marrow donor

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:

bone marrow, as defined in s. 146.34 (1)(a), or

- 1 SECTION 1. 103.10 (1) (g) (intro.) of the statutes is amended to read:
- 2 103.10 (1) (g) (intro.) "Serious health condition" means a disabling physical or
- 3 mental illness, injury, impairment, or condition, including the condition of being in
- 4 recovery from surgery related to donating a human organ, as defined in s. 230.35 (2d)
- 5 (a) 2., involving any of the following:
- 6 SECTION 2. 625.12 (1) (e) of the statutes is amended to read:

BILL

1 625.12 (1) (e) Subject to ~~s. ss. 631.97 (2) (c) and~~ 632.365, all other relevant
2 factors, including the judgment of technical personnel.

3 **SECTION 3.** 625.12 (2) of the statutes is amended to read:

4 625.12 (2) CLASSIFICATION. Risks may be classified in any reasonable way for
5 the establishment of rates and minimum premiums, except that no classifications
6 may be based on race, color, creed, or national origin, and classifications in
7 automobile insurance may not be based on physical condition or developmental
8 disability as defined in s. 51.01 (5). Subject to ~~s. ss. 631.97 (2) (c) and~~ 632.365, rates
9 thus produced may be modified for individual risks in accordance with rating plans
10 or schedules that establish reasonable standards for measuring probable variations
11 in hazards, expenses, or both. Rates may also be modified for individual risks under
12 s. 625.13 (2).

13 **SECTION 4.** 628.34 (3) (a) of the statutes is amended to read:

14 628.34 (3) (a) No insurer may unfairly discriminate among policyholders by
15 charging different premiums or by offering different terms of coverage except on the
16 basis of classifications related to the nature and the degree of the risk covered or the
17 expenses involved, subject to ss. 631.97, 632.365, 632.746, and 632.748. Rates are
18 not unfairly discriminatory if they are averaged broadly among persons insured
19 under a group, blanket or franchise policy, and terms are not unfairly discriminatory
20 merely because they are more favorable than in a similar individual policy.

21 **SECTION 5.** 631.97 of the statutes is created to read:

22 **631.97 Restrictions on insurance practices; living organ donors. (1)**

23 DEFINITIONS. In this section:

BILL**SECTION 5**

1 (a) "Living organ donor" means a person who, while living, donates one or more
2 of his or her human organs, to another human being for human organ
3 transplantation, as defined in s. 146.345 (1) (b).

4 (b) "Policy" means a life insurance policy, long-term care insurance policy, or
5 income continuation insurance policy.

6 **(2) GENERAL PROHIBITIONS.** An insurer may not do any of the following:

7 (a) Refuse to issue or renew coverage to a person under a policy, limit the
8 coverage of a person under a policy, or, notwithstanding s. 631.36 (2) (a) 2., cancel a
9 person's coverage under a policy on the basis that the person is a living organ donor.

10 (b) Preclude a person from donating a human organ as a condition of issuing
11 a policy to the person.

12 (c) Consider the status of a person as a living organ donor in the determination
13 of rates or any other aspect of the person's coverage under a policy.

14 (d) Otherwise discriminate in the offering, issuance, cancellation, setting of
15 rates, or any other condition of a policy for a person based solely and without any
16 additional actuarial risks on the person's status as a living organ donor.

SECTION 6. Initial applicability.

17
18 (1) **FAMILY AND MEDICAL LEAVE.** The treatment of section 103.10 (1) (g) (intro.)
19 of the statutes first applies to an employee, as defined in section 103.10 (1) (b) of the
20 statutes, who is affected by a collective bargaining agreement that contains
21 provisions that are inconsistent with the treatment of section 103.10 (1) (g) (intro.)
22 of the statutes on the day on which the collective bargaining agreement expires or
23 is extended, modified, or renewed, whichever occurs first.

24 (2) **INSURANCE.** The treatment of sections 625.12 (1) (e) and (2), 628.34 (3) (a),
25 and 631.97 of the statutes first applies to all of the following:



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3682/RJ
GMM&AJM:klm

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RMR

IM 1030
Today
(convert to 11)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 **AN ACT to amend** 103.10 (1) (g) (intro.), 625.12 (1) (e), 625.12 (2) and 628.34 (3)
2 (a); and **to create** 631.97 of the statutes; **relating to:** inclusion of recovery from
3 bone marrow or organ donation surgery as a serious health condition for which
4 an employee may take leave from employment under the family and medical
5 leave law and prohibiting certain insurance practices on the basis of a person
6 being a living organ donor or bone marrow donor.

Analysis by the Legislative Reference Bureau

Introduction

This bill includes recovery from bone marrow or organ donation surgery as a serious health condition for which an employee may take leave from employment under the family and medical leave law. The bill also prohibits insurers from refusing to provide or renew coverage, canceling coverage, setting rates, or otherwise discriminating in the terms of a life, long-term care, or income continuation insurance policy on the basis of a person's status as a bone marrow or living organ donor.

Family and medical leave

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state (employer) must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who

has worked for the employer for at least 1,000 hours during the preceding 52-week period (employee) to take: 1) two weeks of medical leave in a 12-month period when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties; and 2) two weeks of family leave in a 12-month period to care for a child, spouse, domestic partner, or parent who has a serious health condition. Current law defines "serious health condition" for purposes of the family and medical leave law as a disabling physical or mental illness, injury, impairment, or condition involving inpatient care in a hospital, nursing home, or hospice or outpatient care that requires continuing treatment or supervision by a health care provider.

This bill includes the condition of being in recovery from surgery related to donating bone marrow or a human organ in the definition of "serious health condition" for purposes of the family and medical leave law. As such, the bill permits an employee to take leave from employment for the following reasons: 1) when the employee is in recovery from surgery related to donating bone marrow or a human organ and is unable to perform his or her employment duties; or 2) to care for a child, spouse, domestic partner, or parent who is in recovery from surgery related to donating bone marrow or a human organ.

Insurance discrimination

This bill prohibits an insurer from refusing to provide or renew coverage to a person, canceling a person's coverage, or limiting a person's coverage under a life insurance policy, long-term care insurance policy, or income continuation insurance policy (collectively, policy) on the basis that the person is a living organ donor or bone marrow donor. Under the bill, insurers may not preclude a person from donating an organ or bone marrow as a condition of issuing a policy to the person. The bill also prohibits an insurer from using the status of a person as a living organ donor or bone marrow donor as a factor in determining rates or any other aspect of insurance coverage under a policy.

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.** 103.10 (1) (g) (intro.) of the statutes is amended to read:
- 2 103.10 (1) (g) (intro.) "Serious health condition" means a disabling physical or
- 3 mental illness, injury, impairment, or condition, including the condition of being in
- 4 recovery from surgery related to donating bone marrow, as defined in s. 146.34 (1)
- 5 (a), or a human organ, as defined in s. 230.35 (2d) (a) 2., involving any of the following:

1 **SECTION 2.** 625.12 (1) (e) of the statutes is amended to read:

2 625.12 (1) (e) Subject to ~~s.~~ ss. 631.97 (2) (c) and 632.365, all other relevant
3 factors, including the judgment of technical personnel.

4 **SECTION 3.** 625.12 (2) of the statutes is amended to read:

5 625.12 (2) CLASSIFICATION. Risks may be classified in any reasonable way for
6 the establishment of rates and minimum premiums, except that no classifications
7 may be based on race, color, creed, or national origin, and classifications in
8 automobile insurance may not be based on physical condition or developmental
9 disability as defined in s. 51.01 (5). Subject to ~~s.~~ ss. 631.97 (2) (c) and 632.365, rates
10 thus produced may be modified for individual risks in accordance with rating plans
11 or schedules that establish reasonable standards for measuring probable variations
12 in hazards, expenses, or both. Rates may also be modified for individual risks under
13 s. 625.13 (2).

14 **SECTION 4.** 628.34 (3) (a) of the statutes is amended to read:

15 628.34 (3) (a) No insurer may unfairly discriminate among policyholders by
16 charging different premiums or by offering different terms of coverage except on the
17 basis of classifications related to the nature and the degree of the risk covered or the
18 expenses involved, subject to ss. 631.97, 632.365, 632.746, and 632.748. Rates are
19 not unfairly discriminatory if they are averaged broadly among persons insured
20 under a group, blanket or franchise policy, and terms are not unfairly discriminatory
21 merely because they are more favorable than in a similar individual policy.

22 **SECTION 5.** 631.97 of the statutes is created to read:

23 **631.97 Restrictions on insurance practices; living organ donors. (1)**

24 DEFINITIONS. In this section:

SECTION 5

1 (a) “Living organ donor” means a person who, while living, donates one or more
2 of his or her human organs, as defined in s. 146.435 (1) (a), to another human being
3 for human organ transplantation, as defined in s. 146.345 (1) (b).

4 (b) “Policy” means a life insurance policy, long-term care insurance policy, or
5 income continuation insurance policy.

6 **(2) GENERAL PROHIBITIONS.** An insurer may not do any of the following:

7 (a) Refuse to issue or renew coverage to a person under a policy, limit the
8 coverage of a person under a policy, or, notwithstanding s. 631.36 (2) (a) 2., cancel a
9 person’s coverage under a policy on the basis that the person is a living organ donor.

10 (b) Preclude a person from donating a human organ as a condition of issuing
11 a policy to the person.

12 (c) Consider the status of a person as a living organ donor in the determination
13 of rates or any other aspect of the person’s coverage under a policy.

14 (d) Otherwise discriminate in the offering, issuance, cancellation, setting of
15 rates, or any other condition of a policy for a person based solely and without any
16 additional actuarial risks on the person’s status as a living organ donor.

17 **SECTION 6. Initial applicability.**

18 (1) FAMILY AND MEDICAL LEAVE. The treatment of section 103.10 (1) (g) (intro.)
19 of the statutes first applies to an employee, as defined in section 103.10 (1) (b) of the
20 statutes, who is affected by a collective bargaining agreement that contains
21 provisions that are inconsistent with the treatment of section 103.10 (1) (g) (intro.)
22 of the statutes on the day on which the collective bargaining agreement expires or
23 is extended, modified, or renewed, whichever occurs first.

24 (2) INSURANCE. The treatment of sections 625.12 (1) (e) and (2), 628.34 (3) (a),
25 and 631.97 of the statutes first applies to all of the following:

Rose, Stefanie

From: Youngman, Lori
Sent: Thursday, November 19, 2015 4:22 PM
To: LRB.Legal
Subject: Draft Review: LRB -3682/1

Please Jacket LRB -3682/1 for the SENATE.