



## Fiscal Estimate Narratives

DOC 2/5/2016

|  |           |                     |        |               |          |
|--|-----------|---------------------|--------|---------------|----------|
| LRB Number   | 15-4410/1 | Introduction Number | SB-653 | Estimate Type | Original |
| <b>Description</b><br>Medically accurate information, conscientious beliefs of reproductive health care providers, health care provider liability insurance, eliminating certain abortion requirements, prohibiting employment retribution and discrimination, actions against a person seeking or providing health care, and providing a criminal penalty |           |                     |        |               |          |

### Assumptions Used in Arriving at Fiscal Estimate

This bill creates a right to medically accurate information, creates bodies for researching reproductive health issues, prohibits certain employment retribution and discrimination for health care providers, provides methods for health care providers to assert conscientious beliefs regarding reproductive health care services, makes various changes to abortion laws, specifies prohibited conduct regarding obtaining and providing health care and civil remedies and criminal penalties for committing that conduct, and regulating rates and other aspects of health care liability insurance.

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#### Prohibited Acts; Criminal and Civil Penalties

The bill prohibits several acts (prohibited acts) against a person seeking, obtaining or helping another person to obtain, or providing health care services (health care patient or provider). The bill prohibits any person (actor) from injuring, intimidating, interfering with, or threatening a health care patient or provider. An actor who does so or who intentionally engages in a pattern of aggressive or harassing conduct against a health care patient or provider, or who intentionally interferes with the property of a medical facility to impede or otherwise interfere with its efficiency, is guilty of a Class I felony.

Under the bill, an actor who intentionally damages property, including data or records kept by a health care provider, or who intentionally files frivolous lawsuits against a health care provider or communicates deprecatory information about a health care provider for the purpose of damaging or interfering with the operations of a health care provider is guilty of a Class A misdemeanor.

An actor who engages in a pattern of targeted and dangerous activity, including an act or threat of murder, kidnapping, arson, robbery, extortion, or other dangerous felonies, toward a health care provider is guilty of a Class E felony, as is an actor who commits any of the other prohibited acts toward a health care patient or provider if the actor knows or should know that his or her action will cause a specific person's death or injury, or will cause a reasonable person to suffer serious emotional distress or to reasonably fear death or substantial bodily injury to himself or herself or to his or her family member or member of his or her household, and the acts did have one of those effects.

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#### Analysis

The bill repeals criminal penalties under Wis. Stat. 940.04. As of 6/30/15, there was no one in prison or on community supervision under this statute. Wis. Stat. 939.75(2)(B)1 and Wis. Stat. 968.26(1b)(a)2 are amended to reflect the repeal of Wis. Stat. 940.04.

Wis. Stat. 940.32(1)(a)11 creates a penalty for "impeding access to a health care facility where the victim seeks, obtains, or provides health care." Additionally, Wis. Stat. 940.32(1)(a)10 is renumbered to Wis. Stat. 940.32(1)(a)12 to incorporate the creation of Wis. Stat. 940.32(1)(a)11.

The Department of Corrections is unable to determine the fiscal impact of the bill as it cannot predict the number of people that will be sentenced and the sentencing practices of judges from the creation of Wis. Stat. 940.32(1)(a)11.

The average FY15 annual cost for an inmate in a DOC institution is approximately \$32,800. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,600 based on FY15 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

If there is a large increase in the number of offenders placed on probation or extended supervision, additional community corrections funding and/or positions may be necessary to handle the population.

The local fiscal impact of the bill cannot be predicted because the Department of Corrections cannot predict the number of people that will be sentenced and the sentencing practices of judges under the new law. The average FY15 annual cost to jail an adult inmate was \$18,800.

### **Long-Range Fiscal Implications**