2015 ASSEMBLY BILL 970

March 3, 2016 – Introduced by Representatives SARGENT, BROSTOFF, JOHNSON, CONSIDINE and BERCEAU, cosponsored by Senator C. LARSON. Referred to Committee on Workforce Development.

AN ACT to amend 111.31 (1), 111.31 (2), 111.31 (3) and 111.321; and to create 111.32 (12i) and 111.363 of the statutes; relating to: employment discrimination based on personal health care choices.

Analysis by the Legislative Reference Bureau

This bill prohibits employment discrimination based on personal health care choices. Current law prohibits discrimination in employment on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of a lawful product off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious or political matters. The bill adds personal health care choices to that list.

The bill specifies that employment discrimination because of personal health care choices includes an employer, labor organization, employment agency, licensing agency, or other person refusing to hire, employ, admit, or license an individual, barraging or terminating an individual from employment, membership, or licensure, or discriminating against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment because of any personal health care choices made or contemplated by or on behalf of the individual or a family member of the individual.

Under the bill, “personal health care choices” includes decisions made by or on behalf of an individual or a family member of an individual related to pregnancy, contraception, and reproductive health, including a decision to use or access, or to refrain from the use or access of, a particular drug, device, or medical service.
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 111.31 (1) of the statutes is amended to read:

111.31 (1) The legislature finds that the practice of unfair discrimination in employment against properly qualified individuals by reason of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, personal health care choices, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters, substantially and adversely affects the general welfare of the state. Employers, labor organizations, employment agencies, and licensing agencies that deny employment opportunities and discriminate in employment against properly qualified individuals solely because of their age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, personal health care choices, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters, deprive those individuals of the earnings that are necessary to maintain a just and decent standard of living.

SECTION 2. 111.31 (2) of the statutes is amended to read:

111.31 (2) It is the intent of the legislature to protect by law the rights of all individuals to obtain gainful employment and to enjoy privileges free from
employment discrimination because of age, race, creed, color, disability, marital
status, sex, national origin, ancestry, sexual orientation, personal health care
choices, arrest record, conviction record, military service, use or nonuse of lawful
products off the employer's premises during nonworking hours, or declining to
attend a meeting or to participate in any communication about religious matters or
political matters, and to encourage the full, nondiscriminatory utilization of the
productive resources of the state to the benefit of the state, the family, and all the
people of the state. It is the intent of the legislature in promulgating this subchapter
to encourage employers to evaluate an employee or applicant for employment based
upon the individual qualifications of the employee or applicant rather than upon a
particular class to which the individual may belong.

SECTION 3. 111.31 (3) of the statutes is amended to read:

111.31 (3) In the interpretation and application of this subchapter, and
otherwise, it is declared to be the public policy of the state to encourage and foster
to the fullest extent practicable the employment of all properly qualified individuals
regardless of age, race, creed, color, disability, marital status, sex, national origin,
ancestry, sexual orientation, personal health care choices, arrest record, conviction
record, military service, use or nonuse of lawful products off the employer's premises
during nonworking hours, or declining to attend a meeting or to participate in any
communication about religious matters or political matters. Nothing in this
subsection requires an affirmative action program to correct an imbalance in the
work force. This subchapter shall be liberally construed for the accomplishment of
this purpose.

SECTION 4. 111.32 (12i) of the statutes is created to read:
111.32 (12i) “Personal health care choices” includes decisions made by or on behalf of an individual or a family member of an individual related to pregnancy, contraception, and reproductive health, including a decision to use or access, or to refrain from the use or access of, a particular drug, device, or medical service.

**SECTION 5.** 111.321 of the statutes is amended to read:

**111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.365, no employer, labor organization, employment agency, licensing agency, or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, personal health care choices, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters.

**SECTION 6.** 111.363 of the statutes is created to read:

**111.363 Personal health care choices; exceptions and special cases.** Employment discrimination because of personal health care choices includes an employer, labor organization, licensing agency, employment agency, or other person refusing to hire, employ, admit, or license an individual, barring or terminating an individual from employment, membership, or licensure, or discriminating against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment because of any personal health care choices made or contemplated by or on behalf of the individual or a family member of the individual.

**SECTION 7. Initial applicability.**
(1) This act first applies to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.