

2017 DRAFTING REQUEST

Bill

For: Lisa Subeck (608) 266-7521 Drafter: tdodge  
 By: Zach Secondary Drafters:  
 Date: 1/18/2017 May Contact:

Same as LRB: -1451

Submit via email: YES  
 Requester's email: Rep.Subeck@legis.wisconsin.gov  
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Pre Topic:

No specific pre topic given

Topic:

Repeal criminal abortion law

Instructions:

Companion to LRB-1451

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	tdodge 1/18/2017	knoch 1/20/2017	hkohn 1/20/2017	hkohn 2/3/2017	

FE Sent For: <END>

↳ Not Needed



State of Wisconsin  
2017 - 2018 LEGISLATURE

1696/1  
LRB-1451/1  
TJD:klm

In: 1/18

Due Fri  
1/20

2017 BILL

Companion  
redraft  
maker  
run

Companion -  
no changes

- 1 AN ACT *to repeal* 940.04; and *to amend* 939.75 (2) (b) 1. and 968.26 (1b) (a) 2.
- 2 a. of the statutes; **relating to:** eliminating certain abortion prohibitions.

***Analysis by the Legislative Reference Bureau***

This bill repeals a statute relating to abortion that has been held unenforceable by a federal court. Under that statute, any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a Class H felony. "Unborn child" is defined as a human being from the time of conception until born alive. Any person, other than the mother, who intentionally destroys the life of an unborn quick child or causes the mother's death by an act done with intent to destroy the life of an unborn child is guilty of a Class E felony. None of these penalties apply to a therapeutic abortion that is performed by a physician; is necessary, or advised by two other physicians as necessary, to save the life of the mother; and, unless an emergency prevents, is performed in a licensed maternity hospital.

The statute was cited in *Roe v. Wade*, 410 U.S. 113 (1973), as similar to a Texas statute that was held to violate the due process clause of the 14th Amendment of the United States Constitution. The unenforceability of the statute following the *Roe v. Wade* decision was noted in a subsequent decision by a federal district court, *Larkin v. McCann*, 368 F. Supp. 1352 (E.D. Wis., 1974).

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

**BILL****SECTION 1**

1           **SECTION 1.** 939.75 (2) (b) 1. of the statutes is amended to read:

2           939.75 (2) (b) 1. An act committed during an induced abortion. This  
3 subdivision does not limit the applicability of ss. 940.04, 940.13, 940.15 and 940.16  
4 to an induced abortion.

5           **SECTION 2.** 940.04 of the statutes is repealed.

6           **SECTION 3.** 968.26 (1b) (a) 2. a. of the statutes is amended to read:

7           968.26 (1b) (a) 2. a. Section 940.04, 940.11, 940.19 (2), (4), (5), or (6), 940.195  
8 (2), (4), (5), or (6), 940.20, 940.201, 940.203, 940.205, 940.207, 940.208, 940.22 (2),  
9 940.225 (3), 940.29, 940.302 (2) (c), 940.32, 941.32, 941.38 (2), 942.09 (2), 943.10,  
10 943.205, 943.32 (1), 946.43, 946.44, 946.47, 946.48, 948.02 (3), 948.03 (2) (b) or (c),  
11 (3), or (4), 948.04, 948.055, 948.095, 948.10 (1) (a), 948.11, 948.13 (2) (a), 948.14,  
12 948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or 948.30 (1).

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(END)

**Kohn, Hanna**

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**From:** Madden, Zachary  
**Sent:** Friday, February 03, 2017 12:35 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1696/1

Please Jacket LRB -1696/1 for the ASSEMBLY.