



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4412/1
CMH:ekg

2021 SENATE BILL 538

1 **AN ACT to create** 157.06 (2) (bm), 157.06 (2) (cm) and 157.06 (15) of the statutes;
2 **relating to:** prohibiting discrimination in organ transplantation on the basis
3 of disability.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 157.06 (2) (bm) of the statutes is created to read:
5 157.06 (2) (bm) “Auxiliary aids and services” means any of the following:
6 1. Qualified interpreters or other effective methods of making aurally delivered
7 material available to individuals with hearing impairments.
8 2. Qualified readers, audio recordings of texts, or other effective methods of
9 making visually delivered material available to individuals with visual
10 impairments.

SENATE BILL 538**SECTION 1**

1 3. Supported decision-making services.

2 **SECTION 2.** 157.06 (2) (cm) of the statutes is created to read:

3 157.06 (2) (cm) “Disability” has the meaning given in 42 USC 12102 (1).

4 **SECTION 3.** 157.06 (15) of the statutes is created to read:

5 157.06 (15) DISCRIMINATION IN USE OF ANATOMICAL GIFTS PROHIBITED. (a) Except
6 as provided in pars. (c) and (d), no hospital or transplant hospital may, solely on the
7 basis of an individual’s disability, do any of the following:

8 1. Consider an individual ineligible to receive an anatomical gift.

9 2. Deny an individual any medical services or other services related to organ
10 transplantation, including diagnostic services, surgery, postoperative treatment,
11 and counseling.

12 3. Refuse to refer an individual to a transplant hospital or an organ transplant
13 specialist for the purpose of being evaluated for or receiving an anatomical gift.

14 4. Refuse to place the individual on an organ transplant waiting list.

15 5. Place the individual on an organ transplant waiting list at a lower priority
16 position than the position at which the individual would have been placed if the
17 individual did not have a disability, unless the individual is placed at a lower priority
18 position because the individual’s disability relates directly to the medical need of the
19 individual to receive the organ transplant and the individual’s relative placement on
20 the waiting list is reflective of the individual’s medical need for the organ transplant.

21 (b) No person may refuse an individual insurance coverage for any procedure
22 associated with being evaluated for or receiving an anatomical gift, including
23 posttransplantation and posttransfusion care, solely on the basis of the individual’s
24 physical or mental disability.

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1 (c) 1. A hospital or transplant hospital may consider an individual's disability
2 when making treatment or coverage decisions or recommendations related to organ
3 transplantation, but only if a physician finds that the disability is medically
4 significant to the receipt of the anatomical gift following an individualized
5 evaluation of the individual.

6 2. If the examining physician determines that the individual has the necessary
7 support system to assist the individual in complying with posttransplantation
8 medical requirements, an individual's inability to independently comply with those
9 requirements may not be considered to be medically significant for purposes of subd.
10 1.

11 (d) This subsection does not apply to eye transplants or services related to the
12 provision of an eye transplant.

13 (e) An individual may bring an action for a violation of this subsection in the
14 circuit court of the county where a violation occurs or the county where the individual
15 resides. The circuit court shall give priority on its docket and expedited review to an
16 action brought under this paragraph. The court shall hold a hearing within 30 days
17 of the filing of the action. In an action brought under this paragraph, the court may
18 grant injunctive or other equitable relief, including requiring that auxiliary aids and
19 services be made available for the individual if and when necessary for the receipt
20 of an organ transplant. In issuing any order for auxiliary aids and services under
21 this subsection, the circuit court shall specify the party responsible for paying for the
22 auxiliary aids and services and for how long the services are to be provided.

23 (END)

State of Wisconsin



2021 Senate Bill 538

Date of enactment: **December 3, 2021**

Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 113

AN ACT to create 157.06 (2) (bm), 157.06 (2) (cm) and 157.06 (15) of the statutes; relating to: prohibiting discrimination in organ transplantation on the basis of disability.

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

SECTION 1. 157.06 (2) (bm) of the statutes is created to read:

157.06 (2) (bm) "Auxiliary aids and services" means any of the following:

1. Qualified interpreters or other effective methods of making orally delivered material available to individuals with hearing impairments.
2. Qualified readers, audio recordings of texts, or other effective methods of making visually delivered material available to individuals with visual impairments.
3. Supported decision-making services.

SECTION 2. 157.06 (2) (cm) of the statutes is created to read:

157.06 (2) (cm) "Disability" has the meaning given in 42 USC 12102 (1).

SECTION 3. 157.06 (15) of the statutes is created to read:

157.06 (15) DISCRIMINATION IN USE OF ANATOMICAL GIFTS PROHIBITED. (a) Except as provided in pars. (c) and (d), no hospital or transplant hospital may, solely on the basis of an individual's disability, do any of the following:

1. Consider an individual ineligible to receive an anatomical gift.

2. Deny an individual any medical services or other services related to organ transplantation, including diagnostic services, surgery, postoperative treatment, and counseling.

3. Refuse to refer an individual to a transplant hospital or an organ transplant specialist for the purpose of being evaluated for or receiving an anatomical gift.

4. Refuse to place the individual on an organ transplant waiting list.

5. Place the individual on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual did not have a disability, unless the individual is placed at a lower priority position because the individual's disability relates directly to the medical need of the individual to receive the organ transplant and the individual's relative placement on the waiting list is reflective of the individual's medical need for the organ transplant.

- (b) No person may refuse an individual insurance coverage for any procedure associated with being evaluated for or receiving an anatomical gift, including post-transplantation and posttransfusion care, solely on the basis of the individual's physical or mental disability.

- (c) 1. A hospital or transplant hospital may consider an individual's disability when making treatment or coverage decisions or recommendations related to organ transplantation, but only if a physician finds that the disability is medically significant to the receipt of the ana-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

tomical gift following an individualized evaluation of the individual.

2. If the examining physician determines that the individual has the necessary support system to assist the individual in complying with posttransplantation medical requirements, an individual's inability to independently comply with those requirements may not be considered to be medically significant for purposes of subd. 1.

(d) This subsection does not apply to eye transplants or services related to the provision of an eye transplant.

(e) An individual may bring an action for a violation of this subsection in the circuit court of the county where

a violation occurs or the county where the individual resides. The circuit court shall give priority on its docket and expedited review to an action brought under this paragraph. The court shall hold a hearing within 30 days of the filing of the action. In an action brought under this paragraph, the court may grant injunctive or other equitable relief, including requiring that auxiliary aids and services be made available for the individual if and when necessary for the receipt of an organ transplant. In issuing any order for auxiliary aids and services under this subsection, the circuit court shall specify the party responsible for paying for the auxiliary aids and services and for how long the services are to be provided.

