



1997 ASSEMBLY BILL 740

January 27, 1998 - Introduced by Representatives WALKER, PLALE, LADWIG, WOOD, ALBERS, OWENS, JESKEWITZ, LAZICH, HANDRICK, URBAN, WIECKERT, F. LASEE, HUTCHISON, HUEBSCH, HOVEN, GROTHMAN, GUNDERSON, GREEN, GOETSCH, GARD, FREESE, DUFF, DOBYNS, M. LEHMAN, NASS, OTT, OTTE, PORTER, STASKUNAS, SCHAFFER and SYKORA, cosponsored by Senators DRZEWIECKI, FARROW, FITZGERALD, WEEDEN and ZIEN. Referred to Committee on Government Operations.

- 1 **AN ACT to create** 20.9273 of the statutes; **relating to:** prohibitions on the use of
2 public employes and public property for activities relating to abortion.

Analysis by the Legislative Reference Bureau

Under current law, no state, county, city, village or town funds and no federal funds passing through the state treasury may be authorized or paid for performance of an abortion. This prohibition does not apply to any of the following: 1) the performance of an abortion which is directly and medically necessary to save the life of the woman or to prevent grave, long-lasting physical health damage to the woman; 2) the performance of an abortion in a case of sexual assault or incest that has been reported to the law enforcement authorities; and 3) the authorization or payment of funds for prescription of a drug or the insertion of a device to prevent the implantation of the fertilized ovum.

Under current law as enacted under 1997 Wisconsin Act (the biennial budget act), no state agency or local governmental unit may authorize payment of funds of this state, of the local governmental unit or, to the extent permitted by federal law, of federal funds passing through the state treasury as a grant, subsidy or other funding involving any pregnancy program, project or service of an organization if either of the following applies:

1. The pregnancy program, project or service provides abortion services, promotes, encourages or counsels in favor of abortion services, or makes abortion referrals either directly or through an intermediary in any instance other than when an abortion is directly and medically necessary to save the life of the pregnant woman.

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2. The pregnancy program, project or service is funded from any other source that requires, as a condition for receipt of the funds, that the pregnancy program, project or service perform any of the activities specified in item 1.

If a pregnancy program, project or service uses funds in a manner prohibited by the bill, the grant, subsidy or other funding under which it received the funds is terminated, it must return all funds given to it under that grant, subsidy or other funding and it may not receive similar grants, subsidies or other funding for 24 months after the time it used funds in a prohibited manner.

This bill creates new prohibitions against using public employes and public property for abortion-related activity. First, the bill provides that no person employed by this state, by a state agency or by a local governmental unit may, while acting within the scope of his or her employment, provide abortion services; promote, encourage or counsel in favor of abortion services; or make abortion referrals either directly or through an intermediary in any instance other than when an abortion is directly and medically necessary to save the life of the pregnant woman.

In addition, the bill provides that certain public property may not be used to provide abortion services; promote, encourage or counsel in favor of abortion services; or make abortion referrals either directly or through an intermediary in any instance other than when an abortion is directly and medically necessary to save the life of the pregnant woman. The public property covered by the restrictions created in the bill includes public facilities, public institutions or other buildings or parts of a building that are owned, leased or controlled by the state, a state agency or a local governmental unit, and any equipment or other physical asset that is owned, leased or controlled by the state, a state agency or a local governmental unit. For public property that is leased to a private person under a lease agreement that was entered into before the effective date of the bill, however, the restrictions do not apply until the lease agreement expires or is extended, modified or renewed.

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.** 20.9273 of the statutes is created to read:

2 **20.9273 Prohibition on the use of public employes and public property**
3 **to perform abortions or engage in abortion-related activity.** (1) In this
4 section:

5 (a) "Abortion" has the meaning given in s. 253.10 (2) (a).

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1 (b) "Local governmental unit" means a city, village, town or county or an agency
2 or subdivision of a city, village, town or county.

3 (d) "Public property" means a public facility, public institution or other building
4 or part of a building that is owned, leased or controlled by the state, a state agency
5 or a local governmental unit, or any equipment or other physical asset that is owned,
6 leased or controlled by the state, a state agency or a local governmental unit.

7 (e) "State agency" means an office, department, agency, institution of higher
8 education, association, society or other body in state government created or
9 authorized to be created by the constitution or any law, which is entitled to expend
10 moneys appropriated by law, including the legislature, the courts and an authority
11 created in ch. 231 or 233.

12 **(2)** Beginning on the effective date of this subsection [revisor inserts date],
13 no person employed by this state, by a state agency or by a local governmental unit
14 may do any of the following while acting within the scope of his or her employment:

15 (a) Provide abortion services.

16 (b) Promote, encourage or counsel in favor of abortion services.

17 (c) Make abortion referrals either directly or through an intermediary in any
18 instance other than when an abortion is directly and medically necessary to save the
19 life of the pregnant woman.

20 **(3)** (a) Except as provided in pars. (b) and (c), beginning on the effective date
21 of this paragraph [revisor inserts date], no public property may be used to do any
22 of the following:

23 1. Provide abortion services.

24 2. Promote, encourage or counsel in favor of abortion services.

