



2015 ASSEMBLY BILL 969

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

1 **AN ACT to amend** 20.455 (1) (gh); and **to create** 253.083 of the statutes; **relating**
2 **to:** false advertising by limited services pregnancy centers, providing a penalty,
3 and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill prohibits a limited services pregnancy center from making or distributing an advertisement that contains an untrue or misleading statement related to the services the pregnancy center offers to clients or from making or distributing a misleading or untrue statement concerning the services the pregnancy center offers as part of a plan not to perform those services. This bill defines a limited services pregnancy center as a pregnancy services center that does not directly provide or make referrals for abortions or emergency contraception to individuals seeking services at the pregnancy services center.

Under the bill, if a court finds that a limited services pregnancy center made or distributed an advertisement that contains an untrue or misleading statement or made or distributed a misleading or untrue statement concerning the services it offers as part of a plan not to perform those services, the court may assess a forfeiture on the limited services pregnancy center, require the limited services pregnancy center to reimburse the attorney general or district attorney for the expenses of the investigation and prosecution, and issue an injunction that requires any of the following:

1. That the limited services pregnancy center pay for and distribute corrective advertising.

ASSEMBLY BILL 969

2. That the limited services pregnancy center post a notice that is readily visible to clients that states whether there is a licensed physician on staff at the center and whether the center offers abortions, emergency contraception, or referrals for abortions or emergency contraception.

3. Other relief that the court considers necessary to remedy the adverse effects on women seeking pregnancy-related services.

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.** 20.455 (1) (gh) of the statutes, as affected by 2015 Wisconsin Act 55,
2 is amended to read:

3 20.455 (1) (gh) *Investigation and prosecution.* Moneys received under ss. 23.22
4 (9) (c), 49.49 (6), 100.263, 133.16, 253.083 (3) (e), 281.98 (2), 283.91 (5), 289.96 (3) (b),
5 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2),
6 for the expenses of investigation and prosecution of violations, including attorney
7 fees, and for expenses related to s. 165.055 (3).

8 **SECTION 2.** 253.083 of the statutes is created to read:

9 **253.083 Limited services pregnancy centers; false advertising. (1)** In
10 this section:

11 (a) “Abortion” has the meaning given in s. 253.10 (2) (a).

12 (b) “Client” means an individual who is inquiring about or seeking services at
13 a pregnancy services center.

14 (c) “Emergency contraception” has the meaning given in s. 50.375 (1) (a).

15 (d) “Health information” means any oral or written information in any form or
16 medium that relates to the physical or mental health or condition of a client and any
17 information in any form or medium that relates to a client’s health insurance.

18 (e) “Health care provider” has the meaning given in s. 146.81 (1).

ASSEMBLY BILL 969

1 (f) "Limited services pregnancy center" means a pregnancy services center that
2 does not directly provide abortions or emergency contraception to clients or provide
3 referrals to clients for abortions or emergency contraception.

4 (g) "Pregnancy services center" means a facility, including a mobile facility, the
5 primary purpose of which is to provide services to women who are or may be pregnant
6 and that offers obstetric ultrasounds, obstetric sonograms, or prenatal care to
7 pregnant women or has the appearance of a medical facility. A pregnancy services
8 center has the appearance of a medical facility if at least 2 of the following apply:

9 1. The facility offers pregnancy testing or pregnancy diagnosis.

10 2. The facility has staff or volunteers who wear medical attire or uniforms.

11 3. The facility contains one or more examination tables.

12 4. The facility contains a private or semi-private room or area containing
13 medical supplies or medical instruments.

14 5. The facility has staff or volunteers who collect health information from
15 clients.

16 6. The facility shares space with a licensed health care provider or is located
17 on the same premises as a state-licensed medical facility or a licensed health care
18 provider.

19 (h) "Prenatal care" means a physical examination, pelvic examination, or
20 clinical laboratory service that is provided to a woman during pregnancy.

21 **(2)** (a) A limited services pregnancy center that offers or intends to offer
22 pregnancy-related services, directly or indirectly, may not make or disseminate or
23 cause to be made or disseminated any advertisement in any medium, including in
24 a newspaper, magazine, pamphlet, or on an Internet site, that contains a statement
25 or an omission of material fact related to the services it offers or intends to offer to

ASSEMBLY BILL 969**SECTION 2**

1 clients that is untrue or misleading and that the limited services pregnancy center
2 knew or should have known was untrue or misleading when the advertisement was
3 created, published, or republished.

4 (b) A limited services pregnancy center that offers or intends to offer
5 pregnancy-related services, directly or indirectly, may not make or disseminate or
6 cause to be made or disseminated a misleading or untrue statement concerning the
7 services it offers or intends to offer to clients as part of a plan not to perform services
8 that the limited services pregnancy center advertises that it offers, explicitly or by
9 implication.

10 (3) (a) Subject to par. (b), if the attorney general or a district attorney has
11 reason to believe that a limited services pregnancy center has violated sub. (2), the
12 attorney general or district attorney may bring an action in the name of the state
13 against the limited services pregnancy center for injunctive relief to restrain the
14 violation.

15 (b) Before an action may be commenced under par. (a), the attorney general or
16 district attorney shall notify the limited services pregnancy center, in writing, of the
17 violation. The notice shall specifically identify the violation, including a description
18 of the untrue information or omission of material fact, and provide the limited
19 services pregnancy center 10 days in which to cure the violation. If the limited
20 services pregnancy center fails to cure the violation within 10 days, as determined
21 by the attorney general or district attorney, the attorney general or district attorney
22 may commence an action under par. (a).

23 (c) If a court finds that a limited services pregnancy center violated sub. (2), the
24 court may issue an injunction that requires any of the following:

ASSEMBLY BILL 969

1 1. That the limited services pregnancy center pay for and disseminate
2 corrective advertising in the same form as the advertisement or statement that is the
3 basis of the violation.

4 2. That the limited services pregnancy center post a notice on its premises, in
5 a location that is readily visible to clients in any waiting area or in each examination
6 room that states all of the following:

7 a. Whether there is a licensed physician on staff at the center.

8 b. Whether abortions, emergency contraception, or referrals for abortions or
9 emergency contraception are available at the center.

10 3. Any other narrowly tailored relief that the court considers necessary to
11 remedy the adverse effects of the advertisement or statement that is the basis of the
12 violation toward women seeking pregnancy-related services.

13 (d) A court may require each person who violates sub. (2) to forfeit an amount
14 not less than \$500 nor more than \$5,000 per violation.

15 (e) In addition to the forfeitures provided under par. (d), the court may award
16 the reasonable and necessary expenses of the investigation and prosecution,
17 including attorney fees, to the state if the action was brought by the attorney general
18 or to the county if the action was brought by the district attorney. The department
19 of justice shall deposit in the state treasury for deposit into the general fund all
20 moneys that the court awards to the state under this paragraph. The costs of
21 investigation and the expenses of prosecution, including attorney fees, shall be
22 credited to the appropriation account under s. 20.455 (1) (gh).

23 **(END)**