



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5323/1
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2021 SENATE BILL 797

December 17, 2021 - Introduced by Senator JACQUE, cosponsored by Representatives SORTWELL, BRANDTJEN, MAGNAFICI, PENTERMAN, SCHRAA and WICHGERS. Referred to Committee on Human Services, Children and Families.

1 **AN ACT to amend** 253.10 (3) (c) (intro.), 253.10 (3) (c) 3., 253.10 (3) (c) 4., 253.10
2 (3) (c) 5. and 253.10 (3) (d) (intro.); and **to create** 253.10 (3) (c) 1m. and 253.10
3 (3) (d) 4. of the statutes; **relating to:** requiring the showing of a video for
4 informed consent for an abortion and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a woman upon whom an abortion is to be performed or induced must give voluntary and informed written consent to the abortion. Except in a medical emergency, a woman's consent to an abortion is considered informed only if, at least 24 hours before the abortion is performed or induced, the physician or an assistant has, in person, orally provided the woman with certain information and given to the woman certain written materials. Currently, if the pregnancy is the result of sexual assault or incest, the 24-hour period, but not the provision of information, may be waived or reduced under certain circumstances.

This bill adds to the requirements for consent to an abortion to be considered informed that, at least 24 hours before the abortion is to be performed or induced, a physician must show the woman a video that depicts an animation or other illustration of the type of abortion procedure that is to be performed or induced. The physician must show the video regardless of whether or not a medical emergency exists and the requirement to show the video is not subject to the time waiver for pregnancies resulting from sexual assault or incest. The bill requires that the Department of Health Services, similarly to other materials provided for informed consent, distribute copies of or provide access to videos that are approved by DHS by

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rule. A physician may show or DHS may distribute existing videos that are approved by DHS in lieu of videos created by DHS.

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

1 **SECTION 1.** 253.10 (3) (c) (intro.) of the statutes is amended to read:

2 253.10 (3) (c) *Informed consent.* (intro.) Except if a medical emergency exists,
3 except as provided in subd. 1m., and subject to sub. (3g), a woman's consent to an
4 abortion is informed only if all of the following first take place:

5 **SECTION 2.** 253.10 (3) (c) 1m. of the statutes is created to read:

6 253.10 (3) (c) 1m. At least 24 hours before the abortion is to be performed or
7 induced, the physician who is to perform or induce the abortion or any other qualified
8 physician has, in person, shown to the woman a video as described under par. (d) 4.
9 that depicts an animation or other illustration of the type of abortion procedure that
10 is to be performed or induced. The physician shall provide the information under this
11 subdivision regardless of whether or not a medical emergency exists.

12 **SECTION 3.** 253.10 (3) (c) 3. of the statutes is amended to read:

13 253.10 (3) (c) 3. The information that is required under subds. 1., 1m., and 2.
14 is provided to the woman in an individual setting that protects her privacy,
15 maintains the confidentiality of her decision and ensures that the information she
16 receives focuses on her individual circumstances. This subdivision may not be
17 construed to prevent the woman from having a family member, or any other person
18 of her choice, present during her private counseling.

19 **SECTION 4.** 253.10 (3) (c) 4. of the statutes is amended to read:

20 253.10 (3) (c) 4. Whoever provides the information that is required under subd.
21 1., 1m., or 2., ~~or both,~~ provides adequate opportunity for the woman to ask questions,

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1 including questions concerning the pregnancy, her unborn child, abortion, foster care
2 and adoption, and provides the information that is requested or indicates to the
3 woman where she can obtain the information.

4 **SECTION 5.** 253.10 (3) (c) 5. of the statutes is amended to read:

5 253.10 (3) (c) 5. The woman certifies in writing on a form that the department
6 shall provide, prior to performance or inducement of the abortion, that the
7 information that is required under subds. 1., 1m., and 2. has been provided to her in
8 the manner specified in subd. 3., that the ultrasound required under sub. (3g) has
9 been performed or that requirement is waived under sub. (3m) (a), that she has been
10 offered the information described in par. (d) and that all of her questions, as specified
11 under subd. 4., have been answered in a satisfactory manner. The physician who is
12 to perform or induce the abortion or the qualified person assisting the physician shall
13 write on the certification form the name of the physician who is to perform or induce
14 the abortion. The woman shall indicate on the certification form who provided the
15 information to her and when it was provided and who performed the ultrasound and
16 when it was performed, unless the ultrasound requirement is waived under sub. (3m)
17 (a). If the ultrasound required under sub. (3g) was performed at a facility other than
18 the facility where the physician who is to perform or induce the abortion is located,
19 the woman shall provide to the physician who is to perform or induce the abortion
20 the certification form described under sub. (3g) (d).

21 **SECTION 6.** 253.10 (3) (d) (intro.) of the statutes is amended to read:

22 253.10 (3) (d) *Printed information and video.* (intro.) By the date that is 60
23 days after May 16, 1996, the department shall cause to be published in English,
24 Spanish, and other languages spoken by a significant number of state residents, as
25 determined by the department, materials that are in an easily comprehensible

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1 format and, if printed, are printed in type of not less than 12-point size. The
2 department shall distribute a reasonably adequate number of the materials to
3 county departments as specified under s. 46.245 and upon request, shall annually
4 review the materials for accuracy and shall exercise reasonable diligence in
5 providing materials that are accurate and current. The materials shall be all of the
6 following:

7 **SECTION 7.** 253.10 (3) (d) 4. of the statutes is created to read:

8 253.10 (3) (d) 4. Copies of or access to any video for use under par. (c) 1m. that
9 is approved by the department by rule to demonstrate each type of procedure used
10 to perform or induce an abortion. The department may distribute or a physician may
11 show an existing video from other sources in lieu of a video created by the
12 department, if the department approves by rule the existing video. Notwithstanding
13 s. 227.24, the department may not promulgate any rule under this subdivision as an
14 emergency rule using the procedure under s. 227.24.

15 (END)