



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2921/1
SWB&JPC:cdc

2025 BILL

1 **AN ACT to repeal** 40.03 (6) (m), 40.56, 46.245, 253.095, 253.105, 441.07 (1g) (f),
2 457.26 (2) (gm), 632.8985, 940.04 and 940.15 (5); **to amend** 40.03 (6) (a) 1.,
3 40.03 (6) (a) 2., 40.03 (6) (b), 48.375 (4) (a) 1., 69.186 (1) (hf), 69.186 (1) (k),
4 253.107 (1) (b), 448.02 (3) (a), 939.75 (2) (b) 1. and 968.26 (1b) (a) 2. a.; **to**
5 **repeal and recreate** 253.10 and 448.02 (3) (a); **to create** 40.51 (9m) and
6 253.094 of the statutes; **relating to:** right to bodily autonomy, elimination of
7 certain abortion-related regulations, and coverage of abortion under certain
8 health care coverage plans.

Analysis by the Legislative Reference Bureau

This bill specifies that every individual has the fundamental right to bodily autonomy, which includes the right to access abortion. Under the bill, the state may not prohibit an individual from obtaining an abortion if an abortion is necessary in the professional judgment of the individual's medical provider. Also under the bill, a law or rule of this state that restricts a individual's access to abortion is unenforceable if the law or rule does not confer any legitimate health benefit. Any person that is or may be aggrieved by the enforcement of a law or rule passed or

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promulgated after the effective date of the bill that would be unenforceable under the bill may bring an action in state or federal court for injunctive relief or damages against a state or local official who enforces or attempts to enforce such a law or rule. The bill also expressly provides that all requirements applicable to health care providers are applicable to providers of abortion care.

The bill does not change standard informed consent requirements applicable to all medical procedures, including abortion, but removes additional requirements specific to the performance of an abortion that exceed those standard informed consent requirements. Current law requires that these additional requirements must be met in order for a woman upon whom an abortion is to be performed or induced to give voluntary and informed consent to an abortion. Except in a medical emergency, under current law, a woman's consent to an abortion is considered informed only if, with certain exceptions, 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. The bill repeals these requirements.

Under current law, the state is required to offer to all of its employees at least 2 insured or uninsured health care coverage plans. Further, under current law, certain employers including counties, villages, towns, school districts, and other governmental units or instrumentalities other than the state may offer to all of its employees a health care coverage plan through a program offered by the Group Insurance Board. Current law prohibits these plans from providing coverage for abortion or services the funding for which is ineligible under current law. The bill repeals these restrictions and instead requires coverage of abortion and any other medical services necessary to provide abortion under these health coverage plans if the health care coverage plan provides maternity coverage.

The bill also repeals other various abortion-related laws, including all of the following:

1. The bill eliminates the prohibition on giving a woman an abortion-inducing drug unless the physician who provided the drug for the woman performs a physical exam on the woman and is physically present in the room when the drug is given to the woman.

2. The bill eliminates the prohibition on coverage of abortions by qualified health plans offered through an exchange in this state.

3. The bill eliminates the prohibition on performing abortions by a physician that does not have admitting privileges in a hospital within 30 miles of the location where the abortion is to be performed. This statute was previously held to be unenforceable by the U.S. Court of Appeals for the 7th Circuit in *Planned Parenthood of Wis., Inc. v. Schimel*, 806 F.3d 908 (7th Cir. 2015), which affirmed a permanent injunction granted by the U.S. District Court for the Western District of Wisconsin.

4. The bill repeals a statute that provides that any person, other than the mother, who intentionally destroys the life of an unborn child may be fined not more than \$10,000, imprisoned for not more than six years, or both. "Unborn child" is defined in the statute as a human being from the time of conception until born alive.

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The statute also provides that 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 may be fined not more than \$50,000, imprisoned for not more than 15 years, or both. 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. This statute was previously held to be unenforceable. It 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 to the U.S. 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). In June 2022, the U.S. Supreme Court overturned the *Roe v. Wade* decision in *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022). Litigation concerning the status of the statute is currently pending in state court. In December 2023, the Dane County Circuit Court issued a decision and order declaring that the statute "does not apply to abortions." *Kaul v. Urmanski*, No. 22-CV-1594, slip op. at 14 (Wis. Dane Cnty. Cir. Ct. Dec. 5, 2023). An appeal is pending before the Wisconsin Supreme Court. See *Kaul v. Urmanski*, No. 2023AP002362 (Wis. July 2, 2024) (order granting a petition to bypass the court of appeals). The Wisconsin Supreme Court has also granted a petition for leave to commence an original action regarding whether the state constitution protects a right to receive an abortion and a right for physicians to provide abortions. See *Planned Parenthood of Wisconsin v. Urmanski*, No. 2024AP000330 (Wis. July 2, 2024) (order granting leave to commence an original action); see Petition to Wis. S. Ct. to Take Jurisdiction of an Original Action, *Planned Parenthood of Wisconsin v. Urmanski*, No. 2024AP000330 (Wis. filed Feb. 22, 2024).

The bill also repeals the criminal penalty on a person who is not a physician and who intentionally performs an abortion. The bill does not affect any other criminal prohibition or limitation on abortion in current law, such as the general prohibition on performing an abortion after the fetus or unborn child has reached viability, or any other homicide prohibition. The bill also does not affect a separate provision in current law that prohibits prosecution of and imposing or enforcing a fine or imprisonment against a woman who obtains an abortion or otherwise violates any abortion law with respect to her unborn child or fetus.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

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

1 **SECTION 1.** 40.03 (6) (a) 1. of the statutes is amended to read:

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1 40.03 (6) (a) 1. ~~Except as provided in par. (m), shall~~ Shall, on behalf of the
2 state, enter into a contract or contracts with one or more insurers authorized to
3 transact insurance business in this state for the purpose of providing the group
4 insurance plans provided for by this chapter; or

5 **SECTION 2.** 40.03 (6) (a) 2. of the statutes is amended to read:

6 40.03 (6) (a) 2. ~~Except as provided in par. (m), may~~ May, wholly or partially in
7 lieu of subd. 1., on behalf of the state, provide any group insurance plan on a self-
8 insured basis in which case the group insurance board shall approve a written
9 description setting forth the terms and conditions of the plan, and may contract
10 directly with providers of hospital, medical or ancillary services to provide insured
11 employees with the benefits provided under this chapter.

12 **SECTION 3.** 40.03 (6) (b) of the statutes is amended to read:

13 40.03 (6) (b) ~~Except as provided in par. (m), may~~ May provide other group
14 insurance plans for employees and their dependents and for annuitants and their
15 dependents in addition to the group insurance plans specifically provided under
16 this chapter. The terms of the group insurance under this paragraph shall be
17 determined by contract, and shall provide that the employer is not liable for any
18 obligations accruing from the operation of any group insurance plan under this
19 paragraph except as agreed to by the employer.

20 **SECTION 4.** 40.03 (6) (m) of the statutes is repealed.

21 **SECTION 5.** 40.51 (9m) of the statutes is created to read:

22 40.51 (9m) Every health care coverage plan offered by the state under sub. (6)
23 and every health care coverage plan offered by the group insurance board under

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1 sub. (7) shall, if the health care coverage plan provides maternity coverage, provide
2 coverage for abortion and any other medical services necessary to provide abortion.

3 **SECTION 6.** 40.56 of the statutes is repealed.

4 **SECTION 7.** 46.245 of the statutes is repealed.

5 **SECTION 8.** 48.375 (4) (a) 1. of the statutes is amended to read:

6 48.375 (4) (a) 1. The person or the person's agent has, either directly or
7 through a referring physician or his or her agent, received and made part of the
8 minor's medical record, ~~under the requirements of s. 253.10,~~ the voluntary and
9 informed written consent of the minor and the voluntary and informed written
10 consent of one of her parents; or of the minor's guardian or legal custodian, if one
11 has been appointed; or of an adult family member of the minor; or of one of the
12 minor's foster parents, if the minor has been placed in a foster home and the
13 minor's parent has signed a waiver granting the department, a county department,
14 or the foster parent the authority to consent to medical services or treatment on
15 behalf of the minor.

16 **SECTION 9.** 69.186 (1) (hf) of the statutes is amended to read:

17 69.186 (1) (hf) The probable ~~postfertilization age of the unborn child, as~~
18 ~~defined in s. 253.107 (1) (e), and whether an ultrasound was used to assist in~~
19 ~~making the determination of postfertilization age of the unborn child, gestational~~
20 age of the pregnancy or, if the probable ~~postfertilization age of the unborn child~~
21 gestational age of the pregnancy was not determined, the nature of the medical
22 emergency, as defined in s. ~~253.10 (2) (d)~~ 253.107 (1) (b).

23 **SECTION 10.** 69.186 (1) (k) of the statutes is amended to read:

24 69.186 (1) (k) If the unborn child is considered to be capable of experiencing

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1 pain under s. 253.107 (3) (a), the nature of the medical emergency, as defined in s.
2 ~~253.10 (2) (d)~~ 253.107 (1) (b), that the pregnant woman had.

3 **SECTION 11.** 253.094 of the statutes is created to read:

4 **253.094 Right to abortion.** (1) Every individual has the fundamental right
5 to bodily autonomy, which includes the right to access abortion. The state may not
6 prohibit an individual from obtaining an abortion at any time during the pregnancy
7 if an abortion is necessary in the professional judgment of the individual's medical
8 provider.

9 (2) (a) Except as provided in sub. (1), a law or rule of this state that restricts
10 an individual's access to abortion is unenforceable if the law or rule does not confer
11 any legitimate health benefit, such as by expanding an individual's access to health
12 care services or by, according to evidence-based research, increasing the
13 individual's safety.

14 (b) Any person that is or may be aggrieved by the enforcement of a law or rule
15 passed or promulgated after the effective date of this paragraph ... [LRB inserts
16 date], that violates this subsection may bring an action in state or federal court for
17 injunctive relief or damages against a state or local official who enforces or attempts
18 to enforce such a law or rule.

19 **SECTION 12.** 253.095 of the statutes is repealed.

20 **SECTION 13.** 253.10 of the statutes is repealed and recreated to read:

21 **253.10 Requirements for providers of abortion care.** (1) All
22 requirements applicable to health care providers are applicable to providers of
23 abortion care.

24 **SECTION 14.** 253.105 of the statutes is repealed.

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1 **SECTION 15.** 253.107 (1) (b) of the statutes is amended to read:

2 253.107 (1) (b) “Medical emergency” ~~has the meaning given in s. 253.10 (2) (d)~~
3 means a condition, in a physician’s reasonable medical judgment, that makes an
4 abortion necessary.

5 **SECTION 16.** 441.07 (1g) (f) of the statutes is repealed.

6 **SECTION 17.** 448.02 (3) (a) of the statutes is amended to read:

7 448.02 (3) (a) The board shall investigate allegations of unprofessional
8 conduct and negligence in treatment by persons holding a license or certificate
9 granted by the board. An allegation that a physician has violated s. ~~253.10 (3)~~,
10 448.30 or 450.13 (2) or has failed to mail or present a medical certification required
11 under s. 69.18 (2) within 21 days after the pronouncement of death of the person
12 who is the subject of the required certificate or that a physician has failed at least 6
13 times within a 6-month period to mail or present a medical certificate required
14 under s. 69.18 (2) within 6 days after the pronouncement of death of the person who
15 is the subject of the required certificate is an allegation of unprofessional conduct.
16 Information contained in reports filed with the board under s. 49.45 (2) (a) 12r.,
17 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall be investigated
18 by the board. Information contained in a report filed with the board under s.
19 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
20 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
21 discretion of the board, be used as the basis of an investigation of a person named in
22 the report. The board may require a person holding a license or certificate to
23 undergo and may consider the results of one or more physical, mental or

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1 professional competency examinations if the board believes that the results of any
2 such examinations may be useful to the board in conducting its investigation.

3 **SECTION 18.** 448.02 (3) (a) of the statutes, as affected by 2023 Wisconsin Act
4 172, section 4, and 2025 Wisconsin Act (this act), is repealed and recreated to
5 read:

6 448.02 (3) (a) The board shall investigate allegations of unprofessional
7 conduct and negligence in treatment by persons holding a license or certificate
8 granted by the board. An allegation that a physician has violated s. 448.30 or
9 450.13 (2) or has failed to present a medical certification required under s. 69.18 (2)
10 within 21 days after the pronouncement of death of the person who is the subject of
11 the required certificate or that a physician has failed at least 6 times within a 6-
12 month period to present a medical certificate required under s. 69.18 (2) within 6
13 days after the pronouncement of death of the person who is the subject of the
14 required certificate is an allegation of unprofessional conduct. Information
15 contained in reports filed with the board under s. 49.45 (2) (a) 12r., 50.36 (3) (b),
16 609.17, or 632.715, or under 42 CFR 1001.2005, shall be investigated by the board.
17 Information contained in a report filed with the board under s. 655.045 (1), as
18 created by 1985 Wisconsin Act 29, which is not a finding of negligence or in a report
19 filed with the board under s. 50.36 (3) (c) may, within the discretion of the board, be
20 used as the basis of an investigation of a person named in the report. The board
21 may require a person holding a license or certificate to undergo and may consider
22 the results of one or more physical, mental or professional competency
23 examinations if the board believes that the results of any such examinations may be
24 useful to the board in conducting its investigation.

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1 **SECTION 19.** 457.26 (2) (gm) of the statutes is repealed.

2 **SECTION 20.** 632.8985 of the statutes is repealed.

3 **SECTION 21.** 939.75 (2) (b) 1. of the statutes is amended to read:

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

7 **SECTION 22.** 940.04 of the statutes is repealed.

8 **SECTION 23.** 940.15 (5) of the statutes is repealed.

9 **SECTION 24.** 968.26 (1b) (a) 2. a. of the statutes is amended to read:

10 968.26 **(1b)** (a) 2. a. Section ~~940.04~~, 940.11, 940.19 (2), (4), (5), or (6), 940.195
11 (2), (4), (5), or (6), 940.198 (2) (b) or (c) or (3), 940.20, 940.201, 940.203, 940.204,
12 940.205, 940.207, 940.208, 940.22 (2), 940.225 (3), 940.29, 940.302 (2) (c), 940.32,
13 941.32, 941.38 (2), 942.09 (2), 943.10, 943.205, 943.32 (1), 946.43, 946.44, 946.47,
14 946.48, 948.02 (3), 948.03 (2) (b) or (c), (3), or (4), 948.04, 948.055, 948.095, 948.10
15 (1) (a), 948.11, 948.13 (2) (a), 948.14, 948.20, 948.23 (1), (2), or (3) (c) 2. or 3., or
16 948.30 (1).

17 **SECTION 25. Nonstatutory provisions.**

18 (1) REFERENCE CHANGES. Wherever a reference to s. 253.10 (2) (a) appears in
19 the statutes, the legislative reference bureau shall substitute a reference to s. 69.01
20 (13m), as it defines the term “induced abortion.”

21 **SECTION 26. Initial applicability.**

22 (1) For policies and plans containing provisions inconsistent with s. 40.51
23 (9m), s. 40.51 (9m) first applies to policy or plan years beginning on the effective
24 date of this subsection, except as provided in sub. (2).

