



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-2151/1  
SWB:cjs&emw

## 2023 BILL

1     **AN ACT to create** 940.04 (5g), 940.04 (5r) and 940.04 (7) of the statutes; **relating**  
2           **to:** clarification of medical necessity for abortion and exceptions in cases of rape  
3           or incest.

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### *Analysis by the Legislative Reference Bureau*

This bill amends a statute that provides that any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a Class H felony. 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 is guilty of a Class E felony. 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. The statute does not further define the phrase "to save the life of the mother."

The bill amends this statute by specifying that the circumstances under which the therapeutic abortion exception applies are: 1) when pregnancy is contraindicated due to a serious risk of death of the pregnant woman or of substantial and irreversible physical impairment of a major bodily function of the woman; or 2) in any circumstance in which the fetus has no chance of survival, including a physical condition of the fetus that makes survival of the fetus outside of the uterus not possible, an anembryonic pregnancy, an ectopic pregnancy, or a molar pregnancy. The bill also provides that the phrase "destroy the life" or "destroys the life" as used

