



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2792/1
SWB:emw

2023 BILL

1 **AN ACT** *to amend* 253.10 (2) (a); and *to repeal and recreate* 940.04 (5) of the
2 statutes; **relating to:** the definition of abortion.

Analysis by the Legislative Reference Bureau

This bill changes the definition of abortion for purposes of requiring voluntary and informed consent for abortions to provide that abortion does not include a physician's performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child, including an early induction or cesarean section performed due to a medical emergency or the removal of a miscarriage or an ectopic, anembryonic, or molar pregnancy, which results in injury to or death of the woman's unborn child when the physician makes reasonable medical efforts under the circumstances to preserve both the life of the woman and the life of her unborn child in a manner consistent with conventional medical practice. This definition applies to certain other abortion-related provisions, including prohibitions on funding for abortion-related activities, limitations on the prescription and use of abortion-inducing drugs, and the prohibition on abortion if the probable postfertilization age of the unborn child is 20 or more weeks.

The bill also 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

BILL

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 bill eliminates the therapeutic abortion exception and instead specifies that the statutory prohibitions do not apply to a physician's performance of a medical procedure or treatment designed or intended to prevent the death of a pregnant woman and not designed or intended to kill the unborn child, including an early induction or cesarean section performed due to a medical emergency or the removal of a miscarriage or an ectopic, anembryonic, or molar pregnancy, which results in injury to or death of the woman's unborn child when the physician makes reasonable medical efforts under the circumstances to preserve both the life of the woman and the life of her unborn child in a manner consistent with conventional medical practice.

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

1 **SECTION 1.** 253.10 (2) (a) of the statutes is amended to read:

2 253.10 (2) (a) "Abortion" means the use of an instrument, medicine, drug or
3 other substance or device with intent to terminate the pregnancy of a woman known
4 to be pregnant or for whom there is reason to believe that she may be pregnant and
5 with intent other than to increase the probability of a live birth, to preserve the life
6 or health of the infant after live birth or to remove a dead fetus. "Abortion" does not
7 include a physician's performance of a medical procedure or treatment designed or
8 intended to prevent the death of a pregnant woman and not designed or intended to
9 kill the unborn child, including an early induction or cesarean section performed due
10 to a medical emergency or the removal of a miscarriage or an ectopic, anembryonic,
11 or molar pregnancy, which results in injury to or death of the woman's unborn child
12 when the physician makes reasonable medical efforts under the circumstances to
13 preserve both the life of the woman and the life of her unborn child in a manner
14 consistent with conventional medical practice.

15 **SECTION 2.** 940.04 (5) of the statutes is repealed and recreated to read:

BILL

1 940.04 (5) This section does not apply to a physician's performance of a medical
2 procedure or treatment designed or intended to prevent the death of a pregnant
3 woman and not designed or intended to kill the unborn child, including an early
4 induction or cesarean section performed due to a medical emergency or the removal
5 of a miscarriage or an ectopic, anembryonic, or molar pregnancy, which results in
6 injury to or death of the woman's unborn child when the physician makes reasonable
7 medical efforts under the circumstances to preserve both the life of the woman and
8 the life of her unborn child in a manner consistent with conventional medical
9 practice.

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(END)