



## 2023 SENATE BILL 1011

February 8, 2024 - Introduced by Senators FELZKOWSKI, KNODL, TESTIN, JAMES and STROEBEL, cosponsored by Representatives NEDWESKI, ROZAR, BINSFELD, DITTRICH, DUCHOW, HURD, ARMSTRONG, AUGUST, BORN, BROOKS, CALLAHAN, DALLMAN, DONOVAN, GREEN, S. JOHNSON, KITCHENS, KURTZ, KRUG, MACCO, MICHALSKI, MOSES, MURSAU, NEYLON, NOVAK, OLDENBURG, PLUMER, SCHMIDT, SNYDER, SORTWELL, SPIROS, SUMMERFIELD, SWEARINGEN, VOS, WITTKÉ and ZIMMERMAN. Referred to Committee on Licensing, Constitution and Federalism.

1     **AN ACT to amend** 69.186 (1) (k), 69.186 (1) (L), 253.107 (title) and 253.107 (3) (a)  
2             and (b); and **to repeal and recreate** 253.107 (3) (title) of the statutes; **relating**  
3             **to:** abortion if the probable postfertilization age of an unborn child is 14 or more  
4             weeks and requiring a referendum.

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### *Analysis by the Legislative Reference Bureau*

Current law regulates the performance of abortions in a number of ways, including prohibiting the performance or inducement of an abortion, or an attempt to perform or induce an abortion, if the postfertilization age of the unborn child is 20 or more weeks, except in the case of a medical emergency. Current law defines the postfertilization age of the unborn child to mean the number of weeks that have elapsed from the probable time of fertilization of a woman's ovum. This bill retains that definition and amends the 20-week prohibition to prohibit any person from performing, inducing, or attempting to perform or induce an abortion if the probable postfertilization age of the unborn child is 14 or more weeks, except in the case of a medical emergency.

Under the bill, as under current law, a medical emergency means a condition, in a physician's reasonable medical judgment, that so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a 24-hour delay in performance or inducement of an abortion will create serious risk of substantial and irreversible impairment of one or more of the woman's major bodily functions.

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This bill requires a referendum before giving effect to the prohibition created in the bill. Under the bill, at the April 2024 election, the electors would vote on the question whether the statutory provisions treated in the bill shall take effect “thus prohibiting under Wisconsin Statutes an abortion if the probable postfertilization age of the unborn child is 14 or more weeks, except in the case of a medical emergency?”. If a majority of votes cast in the election approves the question, the prohibition takes effect on the day after the election results are certified. If the question is not approved by a majority of votes cast, this act does not take effect.

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

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

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

2           69.186 (1) (k) If the probable postfertilization age of the unborn child, as  
3 defined in s. 253.107 (1) (c), is considered to be capable of experiencing pain under  
4 s. 253.107 (3) (a) 14 or more weeks, the nature of the medical emergency, as defined  
5 in s. 253.10 (2) (d), that the pregnant woman had.

6           **SECTION 2.** 69.186 (1) (L) of the statutes is amended to read:

7           69.186 (1) (L) If the probable postfertilization age of the unborn child, as  
8 defined in s. 253.107 (1) (c), is considered to be capable of experiencing pain under  
9 s. 253.107 (3) (a) 14 or more weeks, a statement whether the method of abortion used  
10 was one that, in reasonable medical judgment, provided the best opportunity for the  
11 unborn child to survive or, if such a method was not used, the basis of the  
12 determination that termination of the pregnancy in that manner posed a greater risk  
13 either of the death of the pregnant woman or of the substantial and irreversible  
14 physical impairment of a major bodily function of the woman than other available  
15 methods.

16           **SECTION 3.** 253.107 (title) of the statutes is amended to read:

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1           **253.107 (title) Probable postfertilization age; later-term abortions at**  
2           **14 or more weeks.**

3           **SECTION 4.** 253.107 (3) (title) of the statutes is repealed and recreated to read:

4           253.107 (3) (title) ABORTIONS AT 14 OR MORE WEEKS.

5           **SECTION 5.** 253.107 (3) (a) and (b) of the statutes are amended to read:

6           253.107 (3) (a) No person shall perform or induce or attempt to perform or  
7 induce an abortion upon a woman when the probable postfertilization age of the  
8 unborn child is considered capable of experiencing pain 14 or more weeks unless the  
9 woman is undergoing a medical emergency. ~~For purposes of this subsection, an~~  
10 ~~unborn child is considered to be capable of experiencing pain if the probable~~  
11 ~~postfertilization age of the unborn child is 20 or more weeks.~~

12           (b) When the probable postfertilization age of the unborn child is considered  
13 ~~capable of experiencing pain 14 or more weeks~~ and the pregnant woman is  
14 undergoing a medical emergency, the physician shall terminate the pregnancy in the  
15 manner that, in reasonable medical judgment, provides the best opportunity for the  
16 unborn child to survive, unless the termination of the pregnancy in that manner  
17 poses a greater risk either of the death of the pregnant woman or of the substantial  
18 and irreversible physical impairment of a major bodily function of the woman than  
19 other available methods.

20           **SECTION 6. Nonstatutory provisions.**

21           (1) There shall be submitted to the vote of the electors at the April 2024 election  
22 the following question: “Shall the statutory provisions treated in 2023 Wisconsin Act  
23 .... (this act) take effect, thus prohibiting under Wisconsin Statutes an abortion if the  
24 probable postfertilization age of the unborn child is 14 or more weeks, except in the  
25 case of a medical emergency?”.

