



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1768/1
PJH:cjs

2015 SENATE BILL 701

February 3, 2016 – Introduced by Senators RISSER, MILLER, HARRIS DODD, RINGHAND and C. LARSON, cosponsored by Representatives SUBECK, BERCEAU, OHNSTAD, HESSELBEIN, SARGENT, BARNES, ZEPNICK, POPE and SPREITZER. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to repeal** 940.04; and **to amend** 939.75 (2) (b) 1. of the statutes; **relating**
2 **to:** eliminating certain abortion prohibitions.

Analysis by the Legislative Reference Bureau

This bill repeals a statute relating to abortion that has been held unenforceable by a federal court. Under that statute, any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a Class H felony. “Unborn child” is defined as a human being from the time of conception until born alive. 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 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 of the United States Constitution. Because of the *Roe v. Wade* decision, a subsequent decision by a federal district court, *Larkin v. McCann*, 368 F. Supp. 1352 (E.D. Wis., 1974), held the statute unenforceable.

This bill repeals that statute.

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

