



WISCONSIN
RIGHTTOLIFE

LEGISLATIVE ANALYSIS

2007-2008 LEGISLATIVE SESSION

COERCIVE ABORTION PREVENTION ACT

PURPOSE OF THE BILL

The purpose of this legislation is to protect women who are being coerced into having an abortion. A woman has a right to refuse to consent to an abortion. Her consent is not voluntary if any person is using coercion to compel her to consent to an abortion against her will. It is against the law for an abortion provider to perform an abortion upon a woman against her will.

WHY THIS BILL IS NECESSARY

Research collected after decades of legalized abortion reveals that, in many situations, choosing to abort is not what the woman really wants. The *Medical Science Monitor* reported in 2004 that according to a study of American post-abortive women, 64% of the women felt pressured by others to have an abortion. Pregnant women are intimidated into aborting through financial, relational or emotional threats.

This legislation will act as a deterrent to coerced abortion by requiring the abortion provider to highlight the fact that it is against the law for an abortion to be performed on a woman against her will. A pregnant woman who is being threatened with physical harm unless she submits to an unwanted abortion will no longer be without options. This bill will require that women in these situations be informed of resources available for victims of domestic abuse.

WISCONSIN'S WOMAN'S RIGHT TO KNOW LAW

In 1996 Wisconsin enacted the Woman's Right to Know (WRTK) law to ensure that a woman who is considering an elective abortion receives relevant information regarding her pregnancy, her unborn child, the abortion procedure, and alternatives to abortion. The WRTK law details the specific information that must be given to the woman, except in the case of a medical emergency, followed by a 24 hour reflection period to allow the woman time to absorb and assimilate the information before she makes a decision about an abortion (*see s. 253.10*). The WRTK law specifically provides that an abortion may not be performed unless the woman upon whom the abortion is to be performed has given voluntary and informed consent under the requirements of this law.

The current provision relating to the **voluntary consent** requirement states, "Consent under this section to an abortion is voluntary only if the consent is given freely and without coercion by any person." However, there is no specific requirement that the abortion provider determine that the woman's consent is, in fact, voluntary.

The only other reference to **coercion** in the WRTK law is buried in the lengthy provision requiring the Department of Health and Family Services (DHFS) to publish certain printed materials (see s. 253.10 (3) (d) 1.). The WRTK law requires that the “materials shall state that it is unlawful to perform an abortion for which consent has been coerced, that any physician who performs or induces an abortion without obtaining the woman’s voluntary and informed consent is liable to her for damages ...” The WRTK law also specifically states that “There is no presumption that consent to an abortion is voluntary.”

WHAT THE BILL WOULD DO

The Coercive Abortion Prevention Act is simple and straightforward. This legislation adds these requirements to the current WRTK law:

1. Any physician who is doing the informed consent counseling with a woman who is considering an abortion shall, in person, orally inform the woman that “the woman has a right to refuse to consent to an abortion, that her consent is not voluntary if any person is using coercion to compel her to consent to have an abortion against her will, and that it is unlawful for the physician to perform an abortion upon her against her will.” This information would also be printed on the certification form the woman is already required to sign as part of the informed consent process. The WRTK law requires that a copy of the certification form be given to the woman.
2. The actual abortion provider is required to “determine whether or not the woman’s consent is, in fact, voluntary.” It is elementary that physicians must obtain the voluntary and informed consent of a patient before performing any medical treatment or surgery on a patient. The addition of this provision to the WRTK law underscores how important it is in the abortion context to be sure that the woman’s consent is given freely and without coercion by any person.
3. If the abortion provider has reason to suspect that the woman is in danger of being physically harmed by any person who is using coercion to compel her to consent to have an abortion against her will, the physician shall inform the woman about resources available for victims or potential victims of domestic violence and provide her private access to a telephone if she wishes to call for assistance. The bill would also require DHFS to add statewide and county by county information on resources available for victims of domestic violence to the Directory of Services that is already required to be given to every woman who gets the informed consent counseling under the WRTK law.

If these requirements are faithfully adhered to, women will be encouraged to admit that they are being coerced into consenting to an abortion against their will. If a woman is in danger of being physically harmed, she will be informed about resources available for victims of domestic abuse and, hopefully, get the help she needs.

Please contact your state legislators and urge them to support the Coercive Abortion Prevention Act.