



# Heal Without Harm

## ETHICAL RESEARCH COALITION

Sen. Moulton / Rep. Kleefisch	Sen. Darling / Rep. Duchow
<b>Fetal Remains Respect Act (SB 423)</b>	<b>AB 83/SB 422</b>
Cells not included in the definition of “fetal body part.”	Exempts cultured cells and cells (plus tissues/organs) for abortion that occurred before the effective date of the bill.
Concerns induced abortions as defined in s. 253.10(2)(a).	Concerns elective abortions with reference to 253.10(2)(a).
<p>Prohibits knowingly acquiring, providing, receiving or using fetal body parts from induced abortions that occurred after January 1, 2017, regardless of valuable consideration.</p> <p><b>(COMMENT: FORBIDS TRADE OR USE, INCLUDING PARTS EXCHANGED SANS VALUABLE CONSIDERATION. (COMMENT: PROFITEERING RELATED TO FETAL TISSUE OBTAINED THROUGH OTHER MEANS (STILLBIRTH, MISCARRIAGE, ETC.) IS ADDRESSED IN THE UNBORN CHILD DISPOSITION AND ANATOMICAL GIFT ACT (SEE BELOW.)</b></p>	<p>Prohibits knowingly and for valuable consideration acquiring, receiving, transferring, or using for research a fetal body part from an elective abortion.</p> <p><b>(COMMENT: PERMITS ACQUISITION AND USE WHEN NO VALUABLE CONSIDERATION PROVIDED. DOES NOT ADDRESS PROFITEERING RELATED TO FETAL TISSUE OBTAINED THROUGH OTHER MEANS (STILLBIRTH, MISCARRIAGE, ETC.) (COMMENT: DOES NOT APPLY TO TISSUE RECEIVED FROM ABORTION THAT OCCURRED BEFORE THE EFFECTIVE DATE OF THE BILL.)</b></p>
	<p>Prohibits acquiring or receiving elective abortion body parts for research from any for-profit entity, abortion clinic, or an entity that has as its primary function obtaining fetal tissue for sale.</p> <p><b>(COMMENT: ALLOWS NON-PROFIT ENTITIES TO ACQUIRE OR RECEIVE ABORTED FETAL BODY PARTS FROM ANOTHER NON-PROFIT ENTITY. FOR EXAMPLE, THE UNIVERSITY OF WISCONSIN COULD RECEIVE FROM OR SHIP TO THE UNIVERSITY OF WASHINGTON.)</b></p>
	<p>No person may alter the timing, method, or procedures used to terminate a woman’s pregnancy solely for the purpose of obtaining a fetal body part for research.</p> <p><b>(COMMENT: PRESUMES RESEARCH WOULD CONTINUE TO USE ABORTION-DERIVED BODY PARTS ACQUIRED AFTER THE BILL’S EFFECTIVE DATE. VALIDATES COMMENT DIRECTLY ABOVE.)</b></p>
	A woman’s attending physician who obtains a

	<p>fetal body part from an elective abortion may not be involved in performing research on the fetal body part.</p> <p>(COMMENT: PRESUMES RESEARCH WOULD CONTINUE TO USE ABORTION-DERIVED BODY PARTS ACQUIRED AFTER THE BILL'S EFFECTIVE DATE.)</p>
	<p>Institutional review board must ascertain that informed consent for research using aborted fetal body parts was obtained.</p> <p>(COMMENT: PRESUMES RESEARCH WOULD CONTINUE TO USE ABORTION-DERIVED BODY PARTS ACQUIRED AFTER THE BILL'S EFFECTIVE DATE.)</p>
	<p>The woman must first consent to the elective abortion and only after that may an entity request and obtain her consent for donation of the aborted fetal body part.</p> <p>(COMMENT: PRESUMES RESEARCH WOULD CONTINUE TO USE ABORTION-DERIVED BODY PARTS ACQUIRED AFTER THE BILL'S EFFECTIVE DATE.)</p> <p>(COMMENT: ANY POSSIBLE REVOCATION OF THE MOTHER'S CONSENT IS MADE MORE DIFFICULT BY A COMPLETED CONSENT TO DONATE PRIOR TO THE PERFORMANCE OF THE ABORTION.)</p>
	<p>The woman is informed of any known medical risks to her or any risks to her privacy that may be associated with the donation of a fetal body part and of any risks with her medical care.</p>
<p>Exempts use of an induced abortion fetal body part for pathological study to confirm a prenatal diagnosis of the unborn child or for autopsy</p> <p>(COMMENT: A NARROWLY-TAILORED EXEMPTION THAT FOCUSES ON PROVIDING FAMILY MEMBERS WITH ANSWERS.)</p>	<p>Exempts use of an elective abortion fetal body part for diagnostic or remedial tests, procedures, or observations for the sole purpose of determining the life or health of the unborn child in order to provide that information to the mother or preserving the life or health of the child, unborn child, or the child's mother.</p> <p>(COMMENT: REFERENCE TO "LIFE OR HEALTH OF THE CHILD" IS UNNECESSARY AS THIS BILL APPLIES SOLELY TO UNBORN CHILDREN (SEE DEFINITION OF "FETAL BODY PART".)</p> <p>(COMMENT: HAZARDS BROAD INTERPRETATION TO USE FETAL TISSUE FOR TESTS THAT ADVANCE RESEARCH ON GENETICALLY-ACQUIRED DISEASES. FOR EXAMPLE, "DIAGNOSTIC AND REMEDIAL TESTS" ON FEMALE ABORTED FETAL TISSUE WHERE THE MOTHER'S FAMILY HAS A HISTORY OF BREAST CANCER. SUCH TESTING COULD HAVE BOTH BROAD RESEARCH APPLICATION AND PROVIDE "INFORMATION TO THE MOTHER" REGARDING HER "LIFE OR HEALTH".)</p>
	<p>Exempts those who are developing</p>

	<p>pharmaceutical products or those paying or receiving payment for an existing pharmaceutical product.</p> <p>(COMMENT: PROVIDES A BROAD EXEMPTION FOR A SIZABLE FIELD OF MEDICAL RESEARCH.)</p>
	<p>Nothing in the bill may be construed as restricting access to health care, to prescription drugs or devices, or to other pharmaceutical products.</p> <p>(COMMENT: SIGNIFICANTLY LIMITS THE BILL'S APPLICATION AS "ACCESS TO HEALTH CARE" COULD ENCOMPASS RESEARCH THAT IS LEADING TO HUMAN CLINICAL TRIALS, ETC.)</p>
<p>Requires that facility where induced abortion took place arrange for final disposition of induced abortion body parts by means of burial, internment, entombment, or cremation, and is exempt from any penalties under the bill when facilitating disposition.</p> <p>(COMMENT: INCINERATION NOT PERMITTED.)</p>	<p>Physician who performs or induces an abortion shall arrange for final disposition by burial, internment, entombment, cremation, and incineration, and is exempt from any penalties under the bill when facilitating disposition.</p> <p>(COMMENT: INCINERATION PERMITTED.)</p>
	<p>No person may be held criminally or civilly liable or charged with unprofessional conduct for conscientiously objecting to participation in research utilizing a fetal body part that violates a person's moral or religious belief.</p>
<p>Penalizes persons other than individuals with a fine of not less than \$50,000 and not more than \$100,000.</p> <p>(COMMENT: ONLY ENTITIES CAN BE FINED, NOT INDIVIDUALS. NO IMPRISONMENT.)</p>	<p>Penalizes persons (including individuals) with a fine not to exceed \$50,000 or imprisonment not to exceed 9 months, or both.</p> <p>(COMMENT: THE MAXIMUM FINE IS LOWER, BUT INCLUDES IMPRISONMENT. INDIVIDUALS ARE INCLUDED IN THE LEGAL DEFINITION OF "PERSON.")</p>
<p>No mother or father of unborn child may be penalized.</p>	
<p><b>Unborn Child Disposition and Anatomical Gift Act (SB 424)</b></p>	
<p>If a child is miscarried or stillborn, the facility (i.e., hospital, birthing center or other health care facility) where the stillbirth or miscarriage took place shall advise the parents that they may:</p> <ol style="list-style-type: none"> <li>1) Request preparation of a certificate of birth resulting in a stillbirth.</li> <li>2) Request final disposition. If the parent expresses no wishes, the facility shall arrange for final disposition.</li> <li>3) Request to make an anatomical gift for transplantation, therapy, research, or education.</li> </ol>	

<p>Penalizes any facility at which a stillbirth occurs that violates the above with a fine of not less than \$5,000 and not more than \$10,000.</p>	
<p>A person that receives public moneys from the state and that accepts an anatomical gift of fetal tissue shall record whether or not the tissue was the result of a stillbirth and shall record the procurement organization. The DHS shall audit the records created for compliance.</p>	<p>Researchers and research institutions must obtain documentation from a procurement entity that aborted fetal body part was not obtained for valuable consideration.</p> <p><b>(COMMENT: NO COMPLIANCE MECHANISM.)</b></p>
<p>Adds stillbirth to existing statutes on cremation.</p>	
<p>The DHS shall study the feasibility of developing a fetal tissue and umbilical cord blood bank for use in research and experimentation (in compliance with the law as established under both bills). The DHS shall submit a report of its findings to the Legislature.</p>	<p>The DHS shall investigate the establishment of a public cord blood collection operation within Wisconsin, one which could also provide cord blood units to researchers at no cost.</p> <p>The DHS shall provide its findings and any recommendations to the Governor and to the Legislature.</p> <p><b>(COMMENT: THIS IS A NON-STATUTORY PROVISION.)</b></p>