

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 491, L.D. 662, Bill, "An Act to Require Parental Notification for Minors Seeking Abortions"

Amend the bill in section 2 in that part designated "§8401." in subsection 1 in the first line (page 1, line 22 in L.D.) by striking out the following: "woman's" and inserting in its place the following: 'minor's'

Further amend the bill in section 2 in that part designated "§8401." in subsection 2 in the first line (page 1, line 25 in L.D.) by striking out the following: "woman" and inserting in its place the following: 'minor'

Further amend the bill in section 2 in that part designated "§8401." in subsection 4 in the 2nd line (page 1, line 33 in L.D.) by striking out the following: "woman" and inserting in its place the following: 'minor' and in the 5th line (page 1, line 36 in L.D.) by striking out the following: "woman" and inserting in its place the following: 'minor'

Further amend the bill in section 2 in that part designated "§8401." in subsection 5 in the 2nd line (page 1, line 42 in L.D.) by striking out the following: "is not in the Armed Forces" and inserting in its place the following: 'has not entered the Armed Services' and in the 3rd line (page 1, line 43 in L.D.) by striking out the following: "States and is not employed full-time and" and inserting in its place the following: 'States, is not employed full time and is not'

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2 Further amend the bill in section 2 in that part designed  
"§8402." in subsection 1 in the first 2 lines (page 1, lines 49  
4 and 50 in L.D.) by striking out the following: "an unemancipated  
pregnant woman" and inserting in its place the following: 'a  
6 pregnant minor, who is unemancipated and' and in the 3rd line  
(page 2, line 1 in L.D.) by striking out the following: "shall"  
8 and inserting in its place the following: 'and who does not  
claim, under subsection 2, paragraph D, abuse or neglect by her  
10 parent, shall' and in the 4th line (page 2, line 2 in L.D.) by  
striking out the following: ", as defined in section 8401,"

12 Further amend the bill in section 2 in that part designated  
"§8402." in subsection 2 in paragraph D in subparagraph (1) in  
14 the first line (page 2, line 18 in L.D.) by inserting after the  
following: "mature and" the following: 'well enough'

16 Further amend the bill in section 2 in that part designated  
18 "§8402." in subsection 2 in paragraph D in subparagraph (2) in  
the first to 3rd lines (page 2, lines 22 to 24 in L.D.) by  
20 striking out the following: "the petitioner's parent was engaged  
in a pattern of physical, sexual or emotional abuse against her  
22 or that"

24 Further amend the bill in section 2 by striking out all of  
that part designated "§8403." and inserting in its place the  
26 following:

28 '§8403. Hearing; judgment; constructive order

30 The court shall fix a time for a hearing on any petition  
32 filed under this chapter and shall keep a record of all testimony  
and other oral proceedings in the action. The court shall hear  
34 and determine the action and may not refer any portion of it to a  
referee. The hearing must be held at the earliest possible time,  
36 but not later than the 5th business day after the day that the  
petition is filed. The court shall enter judgment on the  
38 petition immediately after the hearing is concluded. If the  
hearing required by this section is not held by the 5th business  
40 day after the petition is filed, the failure to hold the hearing  
is deemed to be a constructive order of the court authorizing the  
42 petitioner to consent to the performance or inducement of an  
abortion without the notification of her parent and the  
44 petitioner and any other person may rely on the constructive  
order as if the court actually had issued an order under this  
46 section authorizing the petitioner to consent.'

48 Further amend the bill in section 2 by striking out all of  
that part designated "§8404." and inserting in its place the  
50 following:

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'§8404. Standards of review

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1. Allegation of competence. If the petitioner makes the allegations in section 8402, subsection 2, paragraphs A, B and C and paragraph D, subparagraph (1) and if the court finds, by clear and convincing evidence, that the petitioner is sufficiently mature and well enough informed to decide intelligently whether to have an abortion, the court shall issue an order authorizing the petitioner to consent to the performance or inducement of an abortion without the notification of her parent. If the court does not make such a finding, the court shall dismiss the petition.

2. Allegation that notification not in minor's best interest. If the petitioner makes the allegations in section 8402, subsection 2, paragraphs A, B and C and paragraph D, subparagraph (2) and if the court finds, by clear and convincing evidence, that the notification of the parent of the petitioner is not in the best interest of the petitioner, the court shall issue an order authorizing the petitioner to consent to the performance or inducement of an abortion without the notification of her parent. If the court does not make such a finding, it shall dismiss the petition.

3. Combined allegations. If the petitioner makes the allegations in section 8402, subsection 2, paragraphs A, B and C and paragraph D, subparagraphs (1) and (2), the court shall proceed as follows.

A. The court first shall determine whether it can make the finding specified in subsection 2, paragraph D, subparagraph (1) and, if so, shall issue an order pursuant to that subsection. If the court issues such an order, it may not review the allegation made under section 8402, subsection 2, paragraph D, subparagraph (2).

B. If the court pursuant to paragraph A does not make the finding specified in subsection 2, paragraph D, subparagraph (1), it shall determine whether it can make the finding specified in subsection 2, paragraph D, subparagraph (2) and, if so, shall issue an order pursuant to that subsection.

C. If the court does not make the finding specified in subsection 2, paragraph D, subparagraph (1) or (2), it shall dismiss the petition.'

Further amend the bill in section 2 in that part designated "§8405." in subsection 3 in the first line (page 4, line 19 in L.D.) by striking out the following: "section 8403" and inserting in its place the following: 'this chapter'

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2 Further amend the bill in section 2 in that part designated  
"§8405." in subsection 4 in the 3rd line (page 4, line 28 in  
4 L.D.) by striking out the following: "section" and inserting in  
its place the following: 'chapter'

6 Further amend the bill in section 2 in that part designated  
8 "§8405." in subsection 5 in the 3rd line (page 4, line 35 in  
L.D.) by striking out the following: "section 8402" and  
10 inserting in its place the following: 'this chapter'

12 Further amend the bill in section 2 in that part designated  
"§8405." by striking out all of subsection 6 and inserting in its  
14 place the following:

16 '6. Records; reports. The Supreme Judicial Court and the  
Probate Courts shall report to the Office of Vital Statistics  
18 within the Department of Human Services by each January 31st the  
following statistics for petitions filed under this chapter in  
20 District Court and Probate Court:

- 22 A. The number of petitions filed by district or county;
- 24 B. The number of hearings held on petitions filed under  
this chapter by each judge; and
- 26 C. The number of petitions granted by each judge,  
28 indicating whether the petition was granted under section  
8404, subsection 1, 2 or 3.

30 The reports may not identify any minor by name, residence or any  
32 other identifying information.'

34 Further amend the bill in section 2 in that part designated  
"§8406." in subsection 2 in the 5th line (page 5, line 11 in  
36 L.D.) by striking out the following: "judgment on" and inserting  
in its place the following: 'judgment in'

38 Further amend the bill in section 2 in that part designated  
40 "§8406." in subsection 4 in the first paragraph in the 4th line  
from the end (page 5, line 27 in L.D.) by inserting after the  
42 following: "constructive order" the following: 'to the same  
extent' and in the last line (page 5, line 30 in L.D.) by  
44 striking out the following: "the notification of her parent" and  
inserting in its place the following: 'such notification'

46 Further amend the bill in section 2 in that part designated  
48 "§8406." in subsection 4 in the blocked paragraph in the first 2  
lines (page 5, lines 32 and 33 in L.D.) by striking out the  
50 following: "an appeal under" and inserting in its place the

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2 following: 'accordance with' and in the 3rd line (page 5, line  
34 in L.D.) by inserting after the following: "normally apply"  
4 the following: 'as'

6 Further amend the bill in section 2 in that part designated  
"§8406." in subsection 5 in the 3rd line (page 5, line 39 in  
L.D.) by striking out the following: "The notice of appeal and  
8 all" and inserting in its place the following: 'All'

10 Further amend the bill in section 5 in subsection 1 in the  
4th line (page 6, line 14 in L.D.) by striking out the  
12 following: "Title 14, chapter 751" and inserting in its place  
the following: 'subchapter II'

14 Further amend the bill in section 6 in that part designated  
16 "§1600." by inserting after the first paragraph the following:

18 '1. Counselor. "Counselor" means any of the following:

20 A. A psychiatrist;

22 B. A psychologist licensed under Title 32, chapter 56;

24 C. A social worker licensed under Title 32, chapter 83;

26 D. An ordained member of the clergy;

28 E. A physician assistant registered by the Board of  
Licensure in Medicine, Title 32, chapter 48;

30 F. A nurse practitioner licensed under Title 32, chapter 31  
32 and registered by the Board of Licensure in Medicine, Title  
32, chapter 48;

34 G. A certified guidance counselor;

36 H. A registered professional nurse licensed under Title 32,  
38 chapter 31; or

40 I. A practical nurse licensed under Title 32, chapter 31.

42 The counselor may not be a person who is employed by any person  
or organization that either provides abortion services or makes  
44 abortion referrals to a person or organization that provides  
abortion services.'

46 Further amend the bill in section 6 in that part designated  
48 "§1600." by striking out all of subsection 3 (page 6, lines 37 to  
50 39 in L.D.)

2 Further amend the bill in section 6 in that part designated  
3 "\$1600." in subsection 4 in the 2nd line (page 6, line 42 in  
4 L.D.) by striking out the following: "woman" and inserting in  
5 its place the following: 'minor' and in the 5th line (page 6,  
6 line 45 in L.D.) by striking out the following: "woman" and  
7 inserting in its place the following: 'minor'

8 Further amend the bill in section 6 in that part designated  
9 "\$1600." in subsection 5 in the first line (page 7, line 1 in  
10 L.D.) by striking out the following: "woman" and inserting in  
11 its place the following: 'minor' and in the 2nd line (page 7,  
12 line 2 in L.D.) by striking out the following: "is not in the  
13 Armed Forces" and inserting in its place the following: 'has not  
14 entered the Armed Services' and in the 3rd line (page 7, line 3  
15 in L.D.) by striking out the following: "States and is not  
16 employed full-time and" and inserting in its place the  
17 following: 'States, is not employed full time and is not'  
18

19 Further amend the bill in section 6 in that part designated  
20 "\$1600." by renumbering the subsections to read consecutively.

21 Further amend the bill in section 6 by striking out all of  
22 that part designated "\$1600-A." and inserting in its place the  
23 following:

24  
25 '\$1600-A. Parental notification required; exceptions

26  
27 1. Prerequisites to abortion. A physician may not  
28 knowingly perform or induce an abortion for a pregnant minor who  
29 is unemancipated unless one of the following applies:  
30

31 A. The physician has given a 24-hour notice, in person or  
32 by telephone, to the minor's parent of the intention to  
33 perform or induce the abortion and an adult accompanies the  
34 minor to the office of the physician at the time of the  
35 abortion;  
36

37 B. The pregnant minor claims she has been subjected to  
38 abuse or neglect such that notification of the minor's  
39 parent is not in the minor's best interest and the minor's  
40 counselor accompanies the minor to the office of the  
41 physician at the time of the abortion. The physician must  
42 report the claim of abuse or neglect as required under  
43 section 4011; or  
44

45 C. A trial court has issued an order under Title 14,  
46 section 8404 authorizing the minor to consent to the  
47 abortion and an adult accompanies the minor to the office of  
48 the physician at the time of the abortion or a trial court,  
49 by its inaction, constructively has authorized the pregnant  
50

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2 minor to consent to the abortion without notification of her  
3 parent pursuant to Title 14, section 8403 or Title 14,  
4 section 8406, subsection 4.'

6 Further amend the bill in section 6 in that part designated  
7 "~~§1600-B.~~" in the first paragraph in the first line (page 7, line  
8 47 in L.D.) by inserting after the following: "parent" the  
9 following: ', guardian'

10 Further amend the bill in section 6 in that part designated  
11 "~~§1600-B.~~" in the first paragraph in the first 3 lines (page 7,  
12 lines 47 to 49 in L.D.) by striking out the following: "an  
13 unemancipated pregnant woman to have an abortion performed or  
14 induced. If the pregnant woman" and inserting in its place the  
15 following: 'a minor to have an abortion performed. If a minor'

16 Further amend the bill in section 6 in that part designated  
17 "~~§1600-B.~~" in the first paragraph in the 4th and 5th lines (page  
18 7, line 50 and page 8, line 1 in L.D.) by striking out the  
19 following: "or induced, the pregnant woman" and inserting in its  
20 place the following: ', the minor'

22 Further amend the bill in section 6 by striking out all of  
23 those parts designated "~~§1600-C.~~" to "~~§1600-G.~~" and inserting in  
24 their place the following:

26 **'§1600-C. Documentation; notice**

28 If section 1600-A, subsection 1, paragraphs B and C do not  
29 apply and if the parent can not be reached after a reasonable  
30 effort, a physician may not perform or induce an abortion without  
31 giving at least 48 hours' constructive notice to one of the  
32 minor's parents by both certified and ordinary mail sent to the  
33 last known address of the parent. If a parent of the pregnant  
34 minor is not reached within the 48-hour period, the abortion may  
35 be performed or induced even if the certified mail notice is not  
36 received.

38 If a parent who has been notified clearly and unequivocally  
39 expresses a decision not to consult with the pregnant minor  
40 before the pregnant minor's abortion, then the abortion may be  
41 performed or induced without any further waiting period.'

44 Further amend the bill by inserting at the end before the  
45 summary the following:

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**FISCAL NOTE**

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The Judicial Department may require additional General Fund appropriations to cover court appointed attorney costs related to additional civil cases that may be filed in Superior or District Court. The amounts can not be estimated at this time. The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.

The Judicial Department will also incur some minor additional costs associated with recording proceedings, reporting to the Office of Data, Research and Vital Statistics of the Department of Human Services and producing and developing certain forms. These costs can be absorbed within the department's existing budgeted resources.

The additional costs associated with the statistical reports submitted by the court can be absorbed by the Department of Human Services utilizing existing budgeted resources.

This bill may also reduce prosecutions for Class D crimes. If jail sentences are reduced, the savings to the counties are estimated to be \$83.78 per day per prisoner. These savings do not affect reimbursement by the State. The reduction in the number of prosecutions that would have resulted in a jail sentence and the resulting savings to the county jail system are expected to be insignificant.

The Judicial Department may realize some minor administrative savings from reductions of workload, administrative costs and indigent defense costs associated with criminal cases that will no longer be filed in the court system. Reductions in the collection of fines may decrease General Fund revenue by minor amounts.'

**SUMMARY**

This amendment provides 3 prerequisites before an abortion may be performed or induced on a pregnant minor:

1. The physician must, at least 24 hours before performing or inducing an abortion, notify the pregnant minor's parent by telephone or in person that the minor is pregnant and wants an abortion. An adult must accompany the minor to the physician's office at the time of the abortion;
2. The pregnant minor alleges abuse or neglect such that notifying the minor's parent is not in the minor's best

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2 interest. The minor must then be accompanied by an adult  
counselor to the physician's office; or

4 3. The minor has been authorized by the District Court or  
6 the Probate Court to consent to the abortion without parental  
notification. An adult must accompany the minor to the  
8 physician's office at the time of the abortion.

10 This amendment maintains most of the judicial bypass option  
proposed in the original bill, but does not require an allegation  
of abuse.

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