

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 478

S. P. 215

In Senate, February 1, 1967

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Sproul of Lincoln.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Unjustified and Justified Abortions.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 17, § 51, repealed and replaced. Section 51 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 51. Unjustified abortion, penalty, attempts; justifiable abortion, requirements

1. **Unjustified abortion.** Any person who willfully and unjustifiably terminates the pregnancy of any woman, otherwise than by a live birth, by administering any medicine, drug or other substance, or uses an instrument or other means, shall be punished upon conviction by a fine of not more than \$1,000 or by imprisonment for not more than 5 years.

Any person who attempts and intends to effect such termination of pregnancy shall be punished upon conviction by a fine of not more than \$1,000 and by imprisonment for not more than one year, and any person consenting and aiding or assisting in such termination of pregnancy or attempted termination of pregnancy shall be liable to like punishment.

2. **Justifiable abortion.** A licensed physician is justified in terminating a pregnancy if he believes there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother or that the child would be born with grave physical or mental defect, or that the pregnancy resulted from rape, incest or other felonious intercourse, as provided under this Title. Justifiable abortions shall be performed only in a licensed hospital except in case of emergency when hospital facilities are unavailable.

3. **Physicians' certificates; presumption from noncompliance.** No abortion shall be performed unless 2 physicians, one of whom may be the person perform-

ing the abortion, shall have certified in writing the circumstances which they believe to justify the abortion. Such certificate shall be submitted before the abortion to the hospital where it is to be performed and, in the case of abortion following felonious intercourse, to the county attorney. Failure to comply with any of the requirements of this subsection gives rise to a presumption that the abortion was unjustified.

STATEMENT OF FACTS

The only basis for legal abortion under the present statute is the preservation of the life of the mother. The American Law Institute proposed the above modification in 1959 to permit justifiable abortion for other reasons. The modification, of course, makes no abortion mandatory; it simply permits legal abortion under certain situations.

Under this modification, a voluntary legal abortion could be performed in cases such as the following:

- A. A mother who has German measles within the first three months after becoming pregnant and having a 75% chance of having a blind, deaf, severely retarded baby.
- B. A twelve-year-old girl who becomes pregnant by her father as the result of incest.
- C. The housewife-mother who is assaulted and raped by a gang of hoodlums and becomes pregnant.
- D. The mother with three children who is invalidated from multiple sclerosis and becomes pregnant with an expected flare-up of her multiple sclerosis leading to greater invalidism.

All of the above cases now would not be able to have a legal abortion. Abortion does not impair the future child-bearing potential of the female.

Alabama, Colorado, Massachusetts, Maryland, New Jersey, New Mexico, Oregon, Pennsylvania and the District of Columbia have liberalized abortion laws recognizing reasons other than preservation of the life of the mother.