

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 1373

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H. P. 1157

House of Representatives, March 17, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Rand of Yarmouth.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT** Relating to Termination of Human Pregnancy by Therapeutic  
Abortion.

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R. S., T. 17, § 51, repealed and replaced. Section 51 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof: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

1. Termination. No person shall terminate or attempt to terminate or assist in the termination or attempt at termination of a human pregnancy otherwise than by birth, except that a physician licensed to practice in the State of Maine may terminate a human pregnancy or aid or assist or attempt a termination of a human pregnancy if said termination takes place in a hospital, including a state hospital, accredited by the Joint Commission on Accreditation of Hospitals, or its successor accrediting authority, and licensed by the Department of Health and Welfare, or in an osteopathic hospital accredited by the Committee on Hospitals of the American Osteopathic Association, or its successor accrediting authority, and licensed by the Department of Health and Welfare, if such hospital has an abortion review committee appointed in accordance with the bylaws of such hospital and composed of no less than 3 licensed attending physicians of such hospital, and if one or more of the following conditions exists:

A. Continuation of the pregnancy is likely to result in the death of the mother;

B. There is a substantial risk that continuation of the pregnancy would gravely impair the physical or mental health of the mother;

C. There is substantial risk of the birth of the child with grave and permanent physical deformity or mental retardation;

D. The pregnancy resulted from a rape as defined in section 3151 or section 3152, or from incest as defined in section 1851, and the county attorney for the county in which the rape occurred or the Attorney General has notified the Hospital Abortion Review Committee in writing over his signature that there is probable cause to believe that the alleged rape or incest did occur; notification shall be furnished by the county attorney or Attorney General in any case in which pregnancy is allegedly attributable to rape or incest and abortion is contemplated, forthwith following completion of investigation of the alleged rape or incest.

2. Conditions. In no event shall any physician terminate or attempt to terminate or assist in the termination or attempt at termination of a human pregnancy otherwise than by birth unless all of the following conditions exist:

A. The pregnancy has not progressed beyond the first trimester, except in the case of a termination pursuant to subsection 1, paragraph A or where the fetus is dead; and

B. Authorization therefor has been granted in writing by a Hospital Abortion Review Committee appointed by the hospital, and provided that the physician performing the abortion shall not sit as a member of such committee; and

C. The mother requesting the abortion shall have resided in the State of Maine for no less than 3 months prior to such request.

3. Reports. The Hospital Abortion Review Committee shall keep written records of all requests for authorization and its action thereon. An annual report of the therapeutic abortions performed shall be made by the administrator of the hospital and its governing board. Such reports shall include the number of requests, authorizations and performances, the grounds upon which such authorizations were granted and the procedures employed to cause the abortions and such reports shall be forwarded to the Joint Commission on Accreditation of Hospitals or its successor accrediting authority or to the Committee on Hospitals of the American Osteopathic Association or its successor accrediting authority and the Department of Health and Welfare for the purpose of insuring that adequate and proper procedures are being followed in accredited hospitals. Such information may be made available to the public. Said reports shall not include the names of the patients aborted.

4. Limitations. No person shall be required to perform or participate in medical procedures which result in the termination of pregnancy; and the refusal of any person to perform or participate in these medical procedures shall not be a basis for civil liability to any person nor a basis for any disciplinary or any other recriminatory actions against him.

5. Hospital refusal. No hospital, hospital administrator or governing board shall be required to permit the termination of human pregnancies within its institution and the refusal to permit such procedures shall not be

grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against it by the State or any person.

6. Person refusal. The refusal of any person to submit to an abortion or to give consent therefor shall not be grounds for loss of any privileges or immunities to which such person would otherwise be entitled nor shall submission to an abortion or the granting of consent therefor be a condition precedent to the receipt of any public benefits.

7. Offenses. A person is guilty of a criminal offense if he:

A. Sells or gives, or causes to be sold or given, any drug, medicine, preparation, instrument or device for the purpose of causing, inducing or obtaining a termination of human pregnancy other than by a licensed physician in a hospital accredited by the Joint Commission on Accreditation of Hospitals or its successor accrediting authority, and licensed by the Department of Health and Welfare, or in an osteopathic hospital accredited by the Committee on Hospitals of the American Osteopathic Association, or its successor accrediting authority, and licensed by the Department of Health and Welfare or in a state hospital for the mentally ill; or

B. Gives advice, counsel or information for the purpose of causing, inducing or obtaining a termination of human pregnancy other than by such physician in such a hospital; or

C. Knowingly assists or causes by any means whatsoever the obtaining or performing of a termination of human pregnancy other than by such physician in such a hospital.

8. Penalty. Any person who violates any provision of this section, upon conviction, shall be punished by a fine of not more than \$5,000 for each offense, or by imprisonment for not more than 3 years, or by both. The penalties in this section are in addition to and not in substitution for any other penalty or penalties applicable to particular classes of persons under other laws of this State.

#### STATEMENT OF FACT

The present law permits legal abortion when the mother's life is in danger. The purpose of this bill will permit a legal abortion in the case where a pregnancy would gravely impair the physical or mental health of the mother and when there is a great risk that the child would be born physically deformed or mentally retarded.