

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1529

H. P. 1195

House of Representatives, March 20, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Huber of Falmouth.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Regulating Abortion Procedures.

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the recent decisions of the United States Supreme Court relating to abortions have rendered the Revised Statutes, Title 17, section 51, void in its entirety and unenforceable; and

Whereas, the State is concerned with the health and medical protection of its citizens in the performance of abortions and with the protection of its compelling and legitimate interest in the potentiality of human life; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. R. S., T. 17, § 51, repealed.** Section 51 of Title 17 of the Revised Statutes is repealed.

**Sec. 2. R. S., T. 22, § 1581, additional.** Title 22 of the Revised Statutes is amended by adding a new section 1581, to read as follows:

**§ 1581. Abortion**

1. **Defined.** "Abortion" is defined to mean the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.

2. Performed. An abortion may be performed only by a physician duly licensed to practice medicine or osteopathy in this State or by a physician practicing medicine or osteopathy in the employ of the Government of the United States, and

A. After the 12th week of pregnancy, only if performed in a hospital licensed as such by the Department of Health and Welfare or in a hospital operated by the Government of the United States, and

B. After the 24th week of pregnancy, only if determined in the professional judgment of the physician to be necessary for the preservation of the life or health of the mother. Such physician's professional judgment shall be reduced to writing and filed with the Commissioner of Health and Welfare within 10 days after such termination is performed. Such filing shall be maintained by the commissioner for a period of one year after such operation is performed, shall be available at all reasonable times to the Attorney General, shall be a confidential record and shall not be made available for public inspection at any time.

3. Claims. If an abortion is performed in compliance with this section, the death of the fetus shall not give rise to any claim for wrongful death.

4. Consent. The consent of the father shall not be required as a condition precedent to the performance of an abortion upon a consenting adult; provided, that in no case may an abortion be performed upon a minor without the written consent of her parent or parents or guardian.

5. Hospitals. Nothing in this section shall require a hospital to admit any patient for the purpose of performing an abortion.

6. Objections. A physician, or any other person, who is a member of or associated with the staff of a hospital, or any employee of a hospital in which the performance of abortions has been authorized, or any person in the employ of a physician, who shall state in writing in advance, a categorical objection on moral or religious grounds to medical procedures which will result in abortion, shall not be required to participate in such procedures and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

7. Penalty. Any person who performs or procures or aids or abets an abortion other than as authorized by this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 5 years, or by both.

Sec. 3. R. S., T. 32, § 3282, sub-§ 3, ¶ A, amended. Paragraph A of subsection 3 of section 3282 of Title 32 of the Revised Statutes is amended to read as follows:

A. Procuring, performing, aiding or abetting a ~~criminal operation~~ or an abortion other than in compliance with Title 22, section 1581;

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

## STATEMENT OF FACT

Maine's abortion law has been rendered unconstitutional, void in its entirety and wholly unenforceable by U. S. Supreme Court decision and subsequent U. S. District Court judgment. This procedure is now unregulated except by the statutes governing medical practice generally.

This bill would regulate abortion procedures as strictly as allowed by the U. S. Supreme Court decision to protect important, legitimate and compelling state interests.