

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2035

H. P. 1615

House of Representatives, June 13, 1973

Reported by Minority from Committee on Judiciary and printed under
Joint Rules No. 18.

E. LOUISE LINCOLN, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Regulating Abortion Procedures.

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 R. S., T. 17, § 51, repealed. Section 51 of Title 17 of the Revised Statutes is repealed.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, § 1577, additional. Title 22 of the Revised Statutes is amended by adding a new section 1577 to read as follows:

§ 1577. 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 2 years 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 written consent of the husband, if living with the wife, shall be required as a condition precedent to the performance of an abortion upon a married woman unless proceeding without said consent is determined in the professional judgment of the physician to be necessary for the preservation of the life or health of the woman. An abortion shall not be performed upon a minor without her written consent and that of her parent or guardian.

5. 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.

6. Statistical data. The Commissioner of Health and Welfare shall require the confidential reporting of the following information concerning the patient:

- A. Residence by town or city, county and state;
- B. Age;
- C. Number of previous live births;
- D. Number of previous induced abortions;
- E. Date of last menstrual period;
- F. Date abortion performed;
- G. Identification of facility where abortion was performed;
- H. Medical procedures employed to perform abortion;
- I. Complications related to procedure.

The commissioner is authorized to promulgate such rules and regulations as he deems necessary for the proper collection and distribution of such statistical information.

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, as enacted by section 1 of chapter 591 of the public laws of 1971, 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 1577;

STATEMENT OF FACT

Maine's abortion law has been rendered unconstitutional, void in its entirety and wholly unenforceable by United States Supreme Court decision and

subsequent United States 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 United States Supreme Court decision to protect important, legitimate and compelling state interests.