

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

**Legislative Document**

**No. 1482**

S. P. 484

In Senate, March 29, 1979

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

Presented by Senator Devoe of Penobscot.

Cosponsors: Senators Conley of Cumberland, Minkowsky of Androscoggin and Teague of Somerset.

MAY M. ROSS, Secretary of the Senate.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Insure that Informed Consent is Obtained before an Elective Abortion is Performed.**

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

22 MRSA § 1597 is enacted to read:

**§ 1597. Informed consent to abortion**

1. **Consent by the woman.** No physician shall perform an abortion unless, prior to the performance, the physician certifies in writing that the woman gave her informed written consent, freely and without coercion, after the attending physician had informed the woman of the information contained in subsection 2 not more than 30 days and not less than 48 hours prior to her consent to the abortion, and shall further certify in writing the pregnant woman's marital status and age based upon proof of age offered by her.

2. **Informed consent.** In order to insure that the consent for an abortion is truly informed consent, the attending physician shall inform the woman in a manner which, in his professional judgment, is not misleading and which will be understood by the patient, of the following:

- A. According to the best judgment of her attending physician, she is pregnant;**
- B. The number of weeks elapsed from the probable time of the conception of her unborn child, based upon the information provided by her as to the time of her last menstrual period or after a history and physical examination and appropriate laboratory tests;**
- C. The probable anatomical and physiological characteristics of the unborn child at the time abortion is to be performed;**
- D. The immediate and long-term physical dangers of abortion, psychological trauma resulting from abortion, sterility, and increases in the incidence of premature births, tubal pregnancies and still births in subsequent pregnancies;**
- E. The particular risks associated with her own pregnancy and the abortion technique to be performed;**
- F. Alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will provide the woman with economic and other assistance and encouragement to carry her child to term including, if the woman so requests, a list of these agencies and the services available from each; and**
- G. In cases where more than 24 weeks have elapsed since the date of the beginning of the woman's last menstrual period, that her unborn child may be viable and, thus, capable of surviving outside of her womb and that her attending physician has a legal obligation to take all reasonable steps to preserve the life and health of her viable unborn child during and after the abortion.**

**In addition, the physician may inform the woman of any other material facts or opinions or provide any explanation of the information in this subsection which, in the exercise of his best medical judgment, is reasonably necessary to allow the woman to give her informed consent to the proposed abortion, with full knowledge of its nature and consequences.**

#### STATEMENT OF FACT

Recent United States Supreme Court decisions (*Roe v. Wade*, *Doe v. Bolton*, *Planned Parenthood of Central Missouri v. Danforth*) have all upheld various state statutes requiring, in some form or another, that the physician obtain the informed consent of his patient before performing an elective abortion.

This bill defines, in a meaningful way, what the attending physician should advise his patient so that her written consent to the abortion procedure is truly informed as the United States Supreme Court stated so eloquently in the *Planned Parenthood* case above, "The decision to abort, indeed, is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences. The woman is the one primarily

concerned and her awareness of the decision and its significance may be assured, constitutionally, by the State to the extent of requiring her prior written consent.''

This bill provides a form of protection already approved by previous United States Supreme Court decisions.