

# MAINE STATE LEGISLATURE

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(New Title)  
New Draft of H. P. 865, L. D. 1061  
FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1612**

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H. P. 1394

House of Representatives, May 14, 1979

Reported by the Majority from the Committee on Judiciary. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT Relating to Abortions.**

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

**Sec. 1. 17 MRSA § 51** is repealed.

**Sec. 2. 22 MRSA § 1598** is enacted to read:

**§ 1598. Abortions**

**1. Policy.** It is the public policy of the State that an abortion after viability is to be performed only when it is necessary to preserve the life or health of the mother. It is also the public policy that all abortions may only be performed by a physician.

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

**A. "Abortion"** means the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical or by the ingestion of chemical agents with an intention other than to produce a live birth or to remove a dead fetus.

**B. “Viability” means the state of fetal development when the life of the fetus may be continued indefinitely outside the womb by natural or artificial life-supportive systems.**

**3. Persons who may perform abortions; penalties.**

**A. Only a person licensed under Title 32, chapter 36 or chapter 48, to practice medicine in Maine as a medical or osteopathic physician, may perform an abortion on another person.**

**B. Any person not so licensed who knowingly performs an abortion on another person or any person who knowingly assists a nonlicensed person to perform an abortion on another person is guilty of a Class C crime.**

**4. Abortions after viability; criminal liability. A person who performs an abortion after viability is guilty of a Class D crime if:**

**A. He knowingly disregarded the viability of the fetus; and**

**B. He knew that the abortion was not necessary for the preservation of the life or health of the mother.**

**STATEMENT OF FACT**

The new draft places 2 limitations on abortions in this State.

1. It prohibits anyone who is not licensed as a medical or osteopathic physician from performing any abortion at any gestational age. A violation of this provision has a Class C penalty.

2. It prohibits an abortion after viability, except for the preservation of the life or health of the mother. This prohibition avoids the problem of the physician's determination of the viability of the fetus or risk to the mother, by providing that the doctor must be aware of and disregard the indications of viability or lack of risk in order to be guilty of a criminal act. This standard is defined in the Criminal Code, Title 17-A, section 10. A violation of this provision is a Class D crime.