

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 622

H.P. 457

House of Representatives, March 6, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CARTER of Winslow.

Cosponsored by Senator DUTREMBLE of York, Senator MATTHEWS of Kennebec and Senator COLLINS of Aroostook.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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**An Act to Require Parental Consent to a Minor's Abortion.**

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

3 22 MRSA §1597-A is enacted to read:

5 §1597-A. Consent to a minor's decision to have an abortion

7 1. Definitions. As used in this section, unless the  
9 context otherwise indicates, the following terms have the  
11 following meanings.

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

23 B. "Emancipated" means the person has surrendered the  
25 rights of a minor in relation to her parent's or guardian's  
27 duties to her and that the parent or guardian has  
29 surrendered the care, custody and earnings of the minor.

31 C. "Minor" means a person who is less than 18 years of age.

33 2. Abortions on minors prohibited; exceptions. No person  
35 may knowingly perform an abortion upon a pregnant woman under the  
37 age of 18 years unless:

39 A. The attending physician has secured the informed written  
41 consent of the minor and one parent or guardian;

43 B. The minor is emancipated and the attending physician has  
45 received the informed written consent of the minor;

47 C. The minor has been granted the right to self-consent to  
49 the abortion by court order pursuant to subsection 3 and the  
51 attending physician has received the informed written  
consent of the minor; or

D. The minor has been granted consent to the abortion by  
court order, the court has given its informed written  
consent in accordance with subsection 3 and the minor is  
having the abortion willingly, in compliance with subsection  
4.

3. Self-consent or court consent; procedure. The right of  
a minor to self-consent to an abortion under subsection 2,  
paragraph C, or court consent under subsection 2, paragraph D,  
may be granted by a court pursuant to the following procedures.

A. The minor or next friend shall make an application to  
the District Court which shall assist the minor or next  
friend in preparing the petition. The minor or the next

1           friend of the minor shall thereafter file a petition setting  
3           forth the initials of the minor; the age of the minor; that  
5           the minor has been fully informed of the risks and  
7           consequences of the abortion; that the minor is of sound  
9           mind and has sufficient intellectual capacity to consent to  
11           the abortion; that, if the court does not grant the minor  
13           majority rights for the purpose of consent to the abortion,  
          the court should find that the abortion is in the best  
          interest of the minor and give judicial consent to the  
          abortion; that the court should appoint a guardian ad litem  
          of the child; and, if the minor does not have private  
          counsel, that the court should appoint counsel. The  
          petition shall be signed by the minor or the next friend.

15           B. A hearing on the merits of the petition, to be held on  
17           the record, shall be held as soon as possible within 5 days  
19           of the filing of the petition. If any party is unable to  
21           afford counsel, the court shall appoint counsel at least 24  
23           hours before the time of the hearing. At the hearing, the  
25           court shall hear evidence relating to the emotional  
27           development, maturity, intellect and understanding of the  
          minor; the nature, possible consequences and alternatives to  
          the abortion; and any other evidence that the court may find  
          useful in determining whether the minor should be granted  
          majority rights for the purpose of consenting to the  
          abortion or whether the abortion is in the best interests of  
          the minor.

29           C. In the decree, the court shall for good cause:

31                   (1) Grant the petition for majority rights for the  
33                   purpose of consenting to the abortion;

35                   (2) Find the abortion to be in the best interests of  
37                   the minor and give judicial consent to the abortion,  
                  setting forth the grounds for so finding; or

39                   (3) Deny the petition only if the court finds that the  
41                   minor is not emancipated and is not mature enough to  
                  make her own decision and that the abortion is not in  
                  her best interest.

43           D. If the petition is allowed, the informed consent of the  
45           minor, pursuant to a court grant of majority rights or the  
47           judicial consent, shall bar an action by the parent or  
49           guardian of the minor on the grounds of battery of the minor  
51           by those performing the abortion. The immunity granted  
          shall only extend to the performance of the abortion and any  
          necessary accompanying services which are performed in a  
          competent manner.

