

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 679

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H.P. 498

House of Representatives, February 28, 1995

**An Act to Strengthen the Laws Currently Governing the Failure to  
Preserve the Life of a Live Born Person.**

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Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative AHEARNE of Madawaska.  
Cosponsored by Representatives: CAMPBELL of Holden, DRISCOLL of Calais,  
GUERRETTE of Pittston, JOY of Crystal, KNEELAND of Easton, LANE of Enfield,  
LUMBRA of Bangor, ROBICHAUD of Caribou, Senators: CASSIDY of Washington,  
KIEFFER of Aroostook, PARADIS of Aroostook.

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

Sec. 1. 17-A MRSA §213 is enacted to read:

**§213. Failure to preserve life of live born person**

A human being born alive as defined in Title 22, section 1595 as the result of an abortion or a miscarriage, regardless of the chance of survival of that human being, must receive the type and degree of care and treatment required by Title 22, section 1594. An individual who knowingly violates this section commits a Class B crime.

Sec. 2. 22 MRSA §1594, as enacted by PL 1977, c. 696, §186, is amended to read:

**§1594. Failure to preserve life of live born person**

Whenever an abortion procedure, miscarriage or full-term delivery results in a live birth, ~~failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible party or parties to Maine law governing homicide, manslaughter and civil liability for wrongful death and medical malpractice~~ all physicians and licensed medical personnel attending the live born person shall provide that live born person with the type and degree of care and treatment that, in good faith judgment of the physician, is commonly and customarily provided to any other person. An individual who knowingly violates this section commits a Class B crime, as established in Title 17-A, section 4-A, subsection 3, paragraph B.

Notwithstanding the absence of parental or guardian consent, the physician or any other licensed medical personnel must fulfill the obligations set forth in this section and immediately notify the District Court of action taken pursuant to this section. The District Court shall immediately institute an inquiry and, if it finds that the absence of parental or guardian consent is interfering with the treatment required under this section, the court shall immediately grant injunctive relief and require that the live born person be provided the treatment that is common and customary for any other person.

**STATEMENT OF FACT**

This bill makes the failure to provide treatment to a live born person a Class B crime.