

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 57

H.P. 32

House of Representatives, January 9, 1997

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

Reference to the Committee on Judiciary 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: JOY of Crystal, KASPRZAK of Newport, LANE of
Enfield, LAYTON of Cherryfield, MACK of Standish, VIGUE of Winslow, WATERHOUSE
of Bridgton, WHEELER of Bridgewater.

2
3 Be it enacted by the People of the State of Maine as follows:

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

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

8 A human being born alive as defined in Title 22, section
10 1595 as the result of an abortion or a miscarriage, regardless of
12 the chance of survival of that human being, must receive the type
14 and degree of care and treatment required by Title 22, section
16 1594. An individual who knowingly violates this section commits
18 a Class B crime.

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

24 **§1594. Failure to preserve life of live-born person**

26 Whenever an abortion procedure, miscarriage or full-term
28 delivery results in a live birth, ~~failure to take all reasonable~~
30 steps, ~~in keeping with good medical practice, to preserve the~~
32 life ~~and health of the live-born person shall subject the~~
34 responsible party or parties to Maine law governing homicide,
36 manslaughter and civil liability for wrongful death and medical
38 malpractice all physicians and licensed medical personnel
40 attending the live-born person shall provide that live-born
42 person with the type and degree of care and treatment that, in
44 good faith judgment of the physician, are commonly and
46 customarily provided to any other person. An individual who
48 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 shall
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.

44
46 **SUMMARY**

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