

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 535

H.P. 390

House of Representatives, January 28, 1997

An Act to Ban Partial Birth Abortions.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative AHEARNE of Madawaska.

Under suspension of the rules, cosponsored by Representative PLOWMAN of Hampden and Representatives: DESMOND of Mapleton, GERRY of Auburn, LAYTON of Cherryfield, MACK of Standish, MADORE of Augusta, PERRY of Bangor, SIROIS of Caribou, TUTTLE of Sanford, VIGUE of Winslow, WHEELER of Bridgewater, Senators: CASSIDY of Washington, PARADIS of Aroostook.

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

4 Sec. 1. 22 MRSA §1597-B is enacted to read:

6 §1597-B. Partial-birth abortions prohibited

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

10 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.

12 B. "Partial-birth abortion" means an abortion in which the
person performing the abortion partially delivers a fetus
vaginally before killing the fetus and completing the
delivery.

14 2. Partial-birth abortions prohibited; exception. A person
may not knowingly perform a partial-birth abortion and thereby
kill a human fetus. This prohibition does not apply to a
partial-birth abortion that is necessary to save the life of a
mother whose life is endangered by a physical disorder, illness
or injury when no other medical procedure would suffice for that
purpose.

16 3. Criminal liability. A person who violates this section:

18 A. Commits a Class C crime; and

20 B. Is subject to damages awarded in a civil action under
subsection 4.

22 4. Civil action. The father, if married to the mother at
the time she receives the partial-birth abortion procedure, and
the maternal grandparents of the fetus, if the mother has not
attained the age of 18 years at the time of the abortion, may
obtain appropriate relief in a civil action unless the pregnancy
resulted from the plaintiff's criminal conduct or the plaintiff
consented to the abortion. Appropriate relief may include:

24 A. Money damages for all psychological and physical
injuries caused by the violation of this section; and

26 B. Statutory damages equal to 3 times the cost of the
partial-birth abortion.

28 5. Immunity. A woman upon whom a partial-birth abortion is
performed may not be prosecuted under this section for a

2 conspiracy to violate this section or for an offense under
3 section 1597-A or 1598 based on a violation of this section.

4 **Sec. 2. 22 MRSA §1598, sub-§1**, as amended by PL 1993, c. 61,
5 §2, is further amended to read:

6
7 **1. Policy.** It is the public policy of the State that the
8 State not restrict a woman's exercise of her private decision to
9 terminate a pregnancy before viability except as provided in
10 section 1597-A. After viability an abortion may be performed
11 only when it is necessary to preserve the life or health of the
12 mother or, in the case of a partial-birth abortion, when
13 permitted under section 1597-B, subsection 2. It is also the
14 public policy of the State that all abortions may be performed
15 only by a physician.

16
17 **Sec. 3. 22 MRSA §1598, sub-§4**, as enacted by PL 1979, c.405,
18 §2, is amended to read:

19 **4. Abortions after viability; criminal liability.--A- Except**
20 as provided in section 1597-B, a person who performs an abortion
21 after viability is guilty of a Class D crime if:

22
23 A. He That person knowingly disregarded the viability of
24 the fetus; and

25
26 B. He That person knew that the abortion was not necessary
27 for the preservation of the life or health of the mother.

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32 **SUMMARY**

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34 This bill is modeled on the Partial-Birth Abortion Ban Act
35 of 1995 passed by Congress and vetoed by President Clinton in
36 1996 (H.R. 1833). This bill prohibits partial-birth abortions
37 except when such an abortion is necessary to save the life of the
38 mother and no other medical procedure would suffice for that
39 purpose. Performance of a partial-birth abortion is a Class C
40 crime. In addition, the person performing the abortion is
41 subject to damages in a civil suit. The mother may not be
42 prosecuted.