

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 135

S.P. 37

In Senate, January 16, 2001

An Act to Ban Partial Birth Abortion.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Representative WATERHOUSE of Bridgton and
Senators: KNEELAND of Aroostook, SHOREY of Washington, Representatives: CRESSEY
of Baldwin, ANDREWS of York, CARR of Lincoln, CLARK of Millinocket, DAVIS of
Falmouth, KASPRZAK of Newport, STANLEY of Medway.

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.

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

22 C. "Partially vaginally delivers a living fetus before
killing the fetus" means deliberately and intentionally
delivering into the vagina a living fetus, or a substantial
portion of a living fetus, for the purpose of performing a
procedure the physician knows will kill the fetus, and
killing the fetus.

28 **2. Partial-birth abortions prohibited; exception.** A
physician 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.

34 **3. Criminal liability.** A physician who violates this
section commits a Class D crime.

38 **4. Hearing.** A physician accused of an offense under this
section may seek a hearing before the Board of Licensure in
Medicine or the Board of Osteopathic Licensure, as applicable, on
whether the physician's conduct was necessary to save the life of
the mother whose life was endangered by a physical disorder,
illness or injury. The findings on that issue are admissible at
the trial of the physician. Upon a motion of the physician, the
court shall delay the beginning of the trial for not more than 30
days to permit such a hearing to take place.

44 **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.

18 SUMMARY

19
20 This bill prohibits partial-birth abortions except when
21 necessary to save the life of the mother. Performance of a
22 partial-birth abortion in violation of the provisions of this
bill is a Class D crime.