

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1204

S.P. 366

In Senate, February 28, 2001

An Act to Preserve the Life and Health of Women.

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 KNEELAND of Aroostook.
Cosponsored by Senator DAVIS of Piscataquis, Representatives: TOBIN of Dexter,
WHEELER of Bridgewater.

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

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4 **Sec. 1. 22 MRSA §1596, sub-§2**, as repealed and replaced by PL 1989, c. 274, §1, is amended to read:

6 **2. Abortion reports.** A report of each abortion performed shall must be made to the Department of Human Services on forms prescribed by the department. These report forms shall must not identify the patient by name or otherwise and shall must contain only the information requested on the United States Standard Report of Induced Termination of Pregnancy, published by the National Center for Health Statistics, dated January 1978, or any more recent revision of a standard report form.

14 The form containing that information and data shall must be prepared and signed by the attending physician and transmitted to the department not later than 10 days following the end of the month in which the abortion is performed.

20 A physician who reports data on an abortion pursuant to this section shall ~~be~~ is immune from any criminal liability for that abortion under section ~~1598~~ 1598-A.

24 **Sec. 2. 22 MRSA §1598**, as amended by PL 1993, c. 61, §2, is repealed.

26 **Sec. 3. 22 MRSA §1598-A** is enacted to read:

28 §1598-A. Abortions

30 1. Policy. An abortion may not be performed on a pregnant woman if at least 20 weeks have passed since the woman's last regular menstrual period.

34 2. Age of fetus. The physician shall determine the menstrual age of the fetus as follows.

36 A. The physician shall determine the menstrual age of the fetus based on the date of the woman's last regular menstrual period.

38 B. If the physician is unsure about the menstrual age of the fetus, the physician shall perform an ultrasound procedure. Based on the ultrasound results and other relevant medical evidence, the physician shall document in the woman's medical records the menstrual age of the fetus. "Other relevant medical evidence" includes but is not limited to a physical examination of the pregnant woman, her medical history and any other medical tests and procedures.

2 The physician shall make all of the information used in
3 determining the menstrual age of the fetus a part of the
4 woman's medical records. All of these records must be
5 retained for at least 5 years after the woman requests an
6 abortion.

7 C. If, after the ultrasound is performed, the physician is
8 still unsure about the menstrual age of the fetus, a 2nd
9 physician shall examine the woman and all of the medical
10 evidence and make a determination of the menstrual age of
11 the fetus. The 2nd physician shall document, in writing,
12 the determination of the menstrual age of the fetus as part
13 of the woman's medical records.

14 D. If the 2 physicians are unable to agree on the menstrual
15 age of the fetus, the greater number of weeks must be used
16 in determining whether an abortion under this section would
17 be illegal.

18 3. Abortion at 20 weeks and beyond prohibited. A physician
19 may not knowingly perform an abortion at 20 weeks past the
20 pregnant woman's last menstrual period or later in the
21 pregnancy. Violation of this subsection is a Class D crime.

22 4. Life-threatening physical health problem. If the
23 physician determines that at least 20 weeks have passed since the
24 pregnant woman's last menstrual period and the pregnant woman is
25 experiencing a physical health problem that her physician
26 determines could cause her death if the pregnancy is allowed to
27 continue, the physician may induce labor or perform a caesarean.
28 As soon as the physician decides to induce labor or perform a
29 caesarean, the physician shall notify a 2nd physician to be
30 present at the delivery to provide medical care for the baby
31 while the pregnant woman's physician attends to her care. If the
32 2nd physician does not arrive in time for the delivery, the
33 pregnant woman's physician shall provide medical care for the
34 baby until the 2nd physician arrives, at which time the medical
35 care of the baby is transferred to the 2nd physician.

36 The time of notification of the 2nd physician must be noted in
37 the pregnant woman's medical records. If the 2nd physician was
38 unable to arrive in time for the delivery, the 2nd physician
39 shall document in the woman's medical records why the physician
40 did not arrive by the time of the delivery.

41 5. No right to abortion. Nothing in this section may be
42 construed as creating the right to have an abortion.

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SUMMARY

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4 This bill prohibits abortions of pregnancies that have
6 progressed at least 20 weeks since the pregnant woman's last
8 menstrual period. It requires the pregnant woman's physician to
carefully determine the age of the fetus and request the opinion
of a 2nd physician if necessary.

8

10 If the pregnant woman has a life-threatening physical
12 condition if the pregnancy progresses and the fetus is at least
14 20 weeks old, the physician may either induce labor or perform a
caesarean to deliver the baby. A 2nd physician must be notified
to attend the delivery and take medical care of the baby.

14

16 A physician who knowingly performs an abortion when the
fetus is at least 20 weeks old commits a Class D crime.