

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1479

S.P. 504

In Senate, March 24, 2005

An Act To Ensure Systematic Reporting of Abortions

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 BOWLES of Sanford and

Senators: ANDREWS of York, MARTIN of Aroostook, PERRY of Penobscot, PLOWMAN of Penobscot, Representatives: CARR of Lincoln, JOY of Crystal, THOMAS of Ripley.

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

4 **Sec. 1. 22 MRSA §1596-A** is enacted to read:

6 **§1596-A. Abortion reporting**

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

10 A. "Abortion" includes both induced abortion and
spontaneous abortion.

14 B. "Induced abortion" means the use of any means to
intentionally terminate the pregnancy of a female known to
be pregnant, with knowledge that the termination by those
means will, with reasonable likelihood, cause the death of
the fetus.

20 C. "Spontaneous abortion" means any termination of a
pregnancy of a female known to be pregnant that is not an
induced abortion and does not result in a live birth.

24 **2. Reporting form.** The following provisions govern
reporting forms.

26 A. No later than 90 days after the effective date of this
section, the department shall prepare a reporting form for
any physician performing abortions or treating patients in
connection with abortions. A copy of this section must be
attached to the reporting form.

32 B. Any physician performing abortions or treating patients
in connection with abortions shall obtain the reporting form
from the department.

36 C. The reporting form must require the following
information:

40 (1) The number of induced abortions performed and the
number of spontaneous abortions treated in the previous
calendar year, broken down by month;

44 (2) The method of abortion used for each induced
abortion;

46 (3) The approximate gestational age, in weeks, of the
unborn child involved in each abortion;

50 (4) The age of the mother at the time of the abortions;

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- (5) The specific reason for each induced abortion, including, but not limited, to the following:
 - (a) The pregnancy was a result of rape;
 - (b) The pregnancy was a result of incest;
 - (c) The mother cannot afford a child;
 - (d) The mother does not desire to have a child;
 - (e) The mother's emotional health is at stake;
 - (f) The mother will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues; or
 - (g) Other;
- (6) Whether each induced abortion was paid for by:
 - (a) Private insurance;
 - (b) A public health plan; or
 - (c) Other;
- (7) Whether insurance coverage, if any, was by:
 - (a) A fee-for-service insurance company;
 - (b) A managed care insurance company; or
 - (c) Other;
- (8) Complications, if any, of each abortion and of the aftermath of each abortion. Space for complication descriptions must be available on the reporting form;
- (9) The fee collected for performing each abortion or treating each patient in connection with an abortion;
- (10) The type of anesthetic, if any, used for each induced abortion;
- (11) The method used to dispose of fetal tissue and remains;
- (12) The specialty area of the physician;

2 (13) Whether the mother consented to donating fetal
3 remains for medical research;

4 (14) Whether the physician performing an induced
5 abortion has been subject to license revocation or
6 suspension or other professional sanction; and

7 (15) The number of previous abortions the mother has
8 had.

9 3. Induced abortion complication report form. The
10 following provisions govern induced abortion complication report
11 forms.

12 A. No later than 90 days after the effective date of this
13 section, the department shall prepare an induced abortion
14 complication report form for all physicians licensed and
15 practicing in this State. A copy of this section must be
16 attached to the induced abortion complication report form.

17 B. The Board of Licensure in Medicine and the Board of
18 Osteopathic Licensure shall ensure that induced abortion
19 complication report forms required by this section, together
20 with a copy of this section, are provided:

21 (1) No later than 120 days after the effective date of
22 this section to all physicians licensed to practice in
23 this State;

24 (2) To each physician who subsequently becomes
25 licensed to practice in this State at the same time
26 that official notification is made to that physician
27 that the physician is so licensed; and

28 (3) By December 1st of each year, other than the
29 calendar year in which the induced abortion
30 complication report forms are distributed in accordance
31 with subparagraph 1, to all physicians licensed to
32 practice in this State.

33 C. Any physician practicing in this State who encounters an
34 illness or injury that is related to an induced abortion
35 shall complete and submit an induced abortion complication
36 report form to the department.

37 D. Any physician required to submit an induced abortion
38 complication report form to the department shall do so as
39 soon as is practicable after the encounter with the
40 induced-abortion-related illness or injury, but in no case

2 more than 60 days after such an encounter. Unacceptable
3 delay or failure to submit an induced abortion complication
4 report form must be sanctioned according to the penalties
5 imposed by this section.

6 **4. Time.** The following provisions govern deadlines for
7 reporting forms and public reports.

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10 A. A physician performing an abortion or treating a patient
11 in connection with an abortion shall complete and submit a
12 reporting form pursuant to subsection 2 to the department no
13 later than April 1st for abortions performed or conditions
14 relating to abortions treated in the previous calendar year.

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16 B. By July 1st of each year, the department shall issue a
17 public report providing the same detailed information
18 required in the reporting forms and the induced abortion
19 complication report forms. The public report must cover the
20 entire previous calendar year and must be compiled from the
21 data in all the reporting forms and the induced abortion
22 complication report forms submitted to the department in
23 accordance with this section. Each such public report must
24 also provide such detailed information for all previous
25 calendar years, adjusted to reflect any additional
26 information from late or corrected reports. The department
27 shall take care to ensure that none of the information
28 included in the public reports could reasonably lead to
29 identification of any physician who performed an abortion or
30 treated a patient in connection with an abortion or of any
31 mother who has had an abortion.

32 C. The department may, by routine technical rules adopted
33 pursuant to Title 5, chapter 375, subchapter 2-A, alter the
34 dates established by paragraphs A and B for administrative
35 convenience or fiscal savings or other valid reason, as long
36 as physicians performing induced abortions submit a
37 reporting form once a year and the department issues its
38 public report once a year.

39 **5. Enforcement.** The following provisions govern the
40 enforcement of this section.

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43 A. A physician who fails to submit a reporting form as
44 required under subsection 2 or an induced abortion
45 complication report form as required under subsection 3 more
46 than 30 days following a due date under subsection 3 or 4 is
47 subject to a late fee of \$500 for each additional 30-day
48 period that the form is overdue. A physician required to
49 report in accordance with this section who has not submitted
50 a form, or who has submitted an incomplete form, more than

2 one year following the due date may be assessed the
3 appropriate late fee and, in an action brought by the
4 department, be directed by a court of competent jurisdiction
5 to submit a complete form within a period stated by court
6 order or be subject to sanctions for civil contempt.

7 B. If the department fails to issue the public report
8 required by this section, or fails in any way to enforce
9 this section's provisions, any group of 10 or more citizens
10 of this State may seek an injunction in a court of competent
11 jurisdiction against the commissioner requiring that a
12 complete public report be issued within a period stated by
13 court order or that enforcement action be taken. Failure to
14 abide by such an injunction subjects the commissioner to
15 sanctions for civil contempt.

16 C. Anyone who knowingly or recklessly fails to submit a
17 form or submits false information under this section commits
18 a Class E crime.

19 D. The department may take reasonable steps to ensure
20 observance of this section and to verify data provided,
21 including, but not limited to, inspection of places where
22 induced abortions are performed in accordance with relevant
23 statutes.

24 6. General requirement. A report made under this section
25 may not include the name of any female having an abortion.

30 SUMMARY

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33 This bill requires physicians who perform abortions or treat
34 patients in connection with abortions to report annually to the
35 Department of Health and Human Services on forms developed by the
36 department. It also requires physicians who encounter an illness
37 or injury that is related to an induced abortion to complete and
38 submit an induced abortion complication report form to the
39 department. It requires the department to issue annually a
40 public report that provides information compiled from the forms
41 filed with the department. The public report may not contain
42 information that could reasonably lead to the identification of
43 any physician who performed an abortion or any woman who has had
44 an abortion.