

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

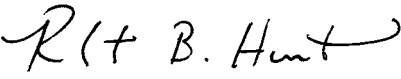
No. 1197

H.P. 757

House of Representatives, March 14, 2023

An Act to Prevent Coerced Abortion

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative ARATA of New Gloucester.
Cosponsored by Senator KEIM of Oxford and
Representatives: BRADSTREET of Vassalboro, DANA of the Passamaquoddy Tribe.

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

2 **Sec. 1. 5 MRSA §4566**, as amended by PL 2019, c. 465, §§1 to 5, is further amended
3 by enacting after the first paragraph a new paragraph to read:

4 The commission also has the duty to prepare educational materials informing pregnant
5 minors and pregnant women of the Act's protections against discrimination on the basis of
6 pregnancy and familial status in employment, education and housing and to make these
7 materials available to health care professionals as defined in Title 22, section 1596,
8 subsection 1, paragraph C.

9 **Sec. 2. 22 MRSA §1597-A, sub-§3**, as amended by PL 2019, c. 262, §2, is further
10 amended to read:

11 **3. Informed consent; disallowance of recovery; refund if consent withdrawn.** A
12 health care professional, as defined in section 1596, subsection 1, paragraph C, may not
13 perform an abortion upon a minor unless, prior to performing the abortion, that health care
14 professional has received the informed written consent of the minor and may not continue
15 to perform an abortion if the minor has withdrawn consent for the abortion prior to the
16 abortion being performed.

17 A. To ensure that the consent for an abortion is informed consent, the health care
18 professional who will perform the abortion shall:

19 (1) Inform the minor orally and in writing in a language and manner that, in the
20 health care professional's professional judgment, is not misleading and that will be
21 understood by the patient, of at least the following:

22 (a) According to the health care professional's best judgment the minor is
23 pregnant;

24 (b) The number of weeks of duration of the pregnancy; and

25 (c) The particular risks associated with the minor's pregnancy, the abortion
26 technique that may be performed and the risks involved for both;

27 (2) Provide the information and counseling described in subsection 4 or refer the
28 minor to a counselor who will provide the information and counseling described
29 in subsection 4; and

30 (3) Determines whether the minor is, under all the surrounding circumstances,
31 mentally and physically competent to give consent.

32 B. Recovery is not allowed against any health care professional upon the grounds that
33 the abortion was rendered without the informed consent of the minor when:

34 (1) The health care professional, in obtaining the minor's consent, acted in
35 accordance with the standards of practice among members of the same health care
36 profession with similar training and experience situated in the same or similar
37 communities; or

38 (2) The health care professional has received and acted in good faith on the
39 informed written consent to the abortion given by the minor to a counselor.

1 C. A health care professional shall refund any payments received for the performance
2 of the abortion if the minor withdraws consent to the abortion at any time prior to the
3 abortion being performed.

4 **Sec. 3. 22 MRSA §1597-A, sub-§4, ¶A**, as amended by PL 2019, c. 262, §2, is
5 further amended to read:

6 A. Any health care professional or counselor providing pregnancy information and
7 counseling under this subsection shall, orally and in writing in a language and manner
8 that will be understood by the minor:

9 (1) Explain that the information being given to the minor is being given objectively
10 and is not intended to coerce, persuade or induce the minor to choose either to have
11 an abortion or to carry the pregnancy to term;

12 (2) Explain that the minor may withhold or withdraw a decision to have an
13 abortion at any time before the abortion is performed and receive a refund of any
14 payments made for the abortion or may reconsider a decision not to have an
15 abortion at any time within the time period during which an abortion may legally
16 be performed and that, pursuant to section 1907, the minor's decision not to have
17 an abortion will not affect the minor's right to receive public assistance or public
18 health services or access to any other public benefit;

19 (3) Clearly and fully explore with the minor the alternative choices available for
20 managing the pregnancy, including:

21 (a) Carrying the pregnancy to term and keeping the child;

22 (b) Carrying the pregnancy to term and placing the child with a relative or
23 with another family through foster care or adoption;

24 (c) The elements of prenatal and postnatal care; and

25 (d) Having an abortion;

26 (4) Explain that public and private agencies are available to provide birth control
27 information and that a list of these agencies and the services available from each
28 will be provided if the minor requests;

29 (4-A) Explain that Title 17-A, section 209 prohibits criminal threatening of any
30 person, including a person who refuses to have an abortion; provide contact
31 information for providers of resources for victims of domestic violence, including
32 the telephone number of at least one domestic violence hotline and one sexual
33 assault hotline; offer to provide referrals to law enforcement agencies and domestic
34 violence and sexual assault support organizations; and offer to call a law
35 enforcement agency if the minor feels that the minor will be unsafe if the minor
36 refuses to have an abortion;

37 (4-B) Explain that the Maine Human Rights Act protects the minor from
38 discrimination on the basis of the minor's pregnancy or familial status in
39 employment, education and housing, and, upon request, provide educational
40 materials prepared by the Maine Human Rights Commission regarding these
41 protections to the minor;

1 (5) Discuss the possibility of involving the minor's parents, guardian or other adult
2 family members in the minor's decision making concerning the pregnancy and
3 explore whether the minor believes that involvement would be in the minor's best
4 interests; and

5 (6) Provide adequate opportunity for the minor to ask any questions concerning
6 the pregnancy, abortion, child care and adoption, and provide the information the
7 minor seeks or, if the person cannot provide the information, indicate where the
8 minor can receive the information.

9 **Sec. 4. 22 MRSA §1599-A, sub-§2**, as amended by PL 2019, c. 262, §6, is further
10 amended to read:

11 **2. Informed consent.** To ensure that the consent for an abortion is truly informed
12 consent, the health care professional, as defined in section 1596, subsection 1, paragraph
13 C, shall inform the ~~woman~~ pregnant patient orally and in writing, in a language and manner
14 that in the health care professional's professional judgment is not misleading and that will
15 be understood by the patient, of at least the following:

16 A. According to the health care professional's best judgment ~~she~~, the patient is
17 pregnant;

18 B. The number of weeks elapsed from the probable time of the conception;

19 C. The particular risks associated with ~~her~~ the patient's own pregnancy and the abortion
20 technique to be performed; ~~and~~

21 D. At the ~~woman's~~ patient's request, alternatives to abortion such as childbirth and
22 adoption and information concerning public and private agencies that will provide the
23 ~~woman~~ patient with economic and other assistance to carry the fetus to term, including,
24 if the ~~woman~~ patient so requests, a list of these agencies and the services available from
25 each;

26 E. The patient's right to withhold or withdraw the patient's consent for the abortion at
27 any time before the abortion is performed and receive a refund of any payments made
28 for the abortion and that, pursuant to section 1907, the patient's decision not to have an
29 abortion will not affect the patient's right to receive public assistance or public health
30 services or access to any other public benefit;

31 F. That Title 17-A, section 209 prohibits criminal threatening of any person, including
32 a person who refuses to have an abortion. The health care professional shall also
33 provide contact information for providers of resources for victims of domestic
34 violence, including the telephone number of at least one domestic violence hotline and
35 one sexual assault hotline; offer to provide referrals to law enforcement agencies and
36 domestic violence and sexual assault support organizations; and offer to call a law
37 enforcement agency if the patient feels that the patient will be unsafe if the patient
38 refuses to have an abortion;

39 G. The protections under the Maine Human Rights Act against discrimination on the
40 basis of pregnancy or familial status in employment, education and housing. Upon
41 request, the health care professional shall provide educational materials prepared by
42 the Maine Human Rights Commission regarding these protections to the patient.

43 **Sec. 5. 22 MRSA §1599-A, sub-§3** is enacted to read:

1 **3. Refund if consent withdrawn.** A health care professional shall refund any
2 payments received for the performance of an abortion if the pregnant patient withdraws
3 consent to the abortion at any time prior to the performance of the abortion.

4 **SUMMARY**

5 This bill amends the laws governing informed consent to abortion by requiring a health
6 care professional, prior to performing an abortion, to provide to a pregnant minor or
7 pregnant patient orally and in writing, in a language and manner that will be understood by
8 the patient:

9 1. Notice that the minor or patient has the right to withdraw consent for an abortion at
10 any time before the performance of the abortion and, if so, to receive a refund of any
11 payments made to the health care professional for the performance of the abortion;

12 2. Notice that the law prohibits criminal threatening of any person, including a person
13 who refuses to have an abortion;

14 3. Contact information for providers of resources for victims of domestic violence,
15 including the telephone number of at least one domestic violence hotline and one sexual
16 assault hotline; an offer to make referrals to law enforcement agencies and domestic
17 violence and sexual assault support organizations; and an offer to call a law enforcement
18 agency if the patient or minor feels that the patient or the minor will be unsafe if the patient
19 or the minor refuses to have an abortion; and

20 4. Information regarding the Maine Human Rights Act's protections against
21 discrimination in employment, education and housing on the basis of pregnancy or familial
22 status and, upon request, provide educational materials prepared by the Maine Human
23 Rights Commission regarding these protections.