

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1614

H.P. 1039

House of Representatives, April 11, 2023

**An Act to Require an Ultrasound and Certain Counseling Before an
Abortion**

Reference to the Committee on Health and Human Services suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative GRIFFIN of Levant.

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

2 **Sec. 1. 22 MRSA §1598, sub-§2, ¶C** is enacted to read:

3 C. "Medical emergency" means a condition that, on the basis of the good faith clinical
4 judgment of a health care professional, as defined in section 1596, subsection 1,
5 paragraph C, complicates the medical condition of a pregnant woman to necessitate the
6 immediate abortion of her pregnancy to avert her death or to avoid a delay that would
7 create serious risk of substantial and irreversible impairment of a major bodily
8 function.

9 **Sec. 2. 22 MRSA §1598, sub-§2, ¶D** is enacted to read:

10 D. "Obstetric ultrasound" or "ultrasound" means the use of ultrasonic waves for
11 diagnostic or therapeutic purposes and to monitor a developing fetus.

12 **Sec. 3. 22 MRSA §1598, sub-§5** is enacted to read:

13 **5. Waiting period.** Unless there is a medical emergency, a health care professional,
14 as defined in section 1596, subsection 1, paragraph C, may not perform an abortion upon a
15 pregnant woman before 48 hours have passed since the health care professional secured the
16 informed written consent of the pregnant woman as required under section 1599-A and the
17 performance of the obstetric ultrasound as required under section 1599-B.

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

20 **2. Informed consent.** To ensure that the consent for an abortion is truly informed
21 consent, the health care professional, as defined in section 1596, subsection 1, paragraph
22 C, shall, in addition to performing the ultrasound as required in section 1599-B, inform the
23 woman, in a manner that in the health care professional's professional judgment is not
24 misleading and that will be understood by the patient, of at least the following:

- 25 A. According to the health care professional's best judgment she is pregnant;
- 26 B. The number of weeks elapsed from the probable time of the conception;
- 27 C. The particular risks associated with her own pregnancy and the abortion technique
28 to be performed; and
- 29 D. ~~At the woman's request, alternatives~~ Alternatives to abortion such as childbirth and
30 parenting and adoption and information concerning public and private agencies that
31 will provide the woman with economic and other assistance to carry the fetus to term,
32 including, if the woman so requests, a list of these agencies and the services available
33 from each.

34 **Sec. 5. 22 MRSA §1599-B** is enacted to read:

35 **§1599-B. Required ultrasound before abortion**

36 **1. Ultrasound required.** Prior to a pregnant woman's giving informed consent under
37 section 1599-A to having an abortion performed, a health care professional who is to
38 perform the abortion or a qualified ultrasound provider to whom the responsibility has been
39 delegated by the health care professional shall:

1 A. Perform an obstetric ultrasound on the pregnant woman and provide a simultaneous
2 explanation of what the ultrasound images are depicting, which must include the
3 presence and location of the fetus and the number of fetuses depicted, and, if the
4 ultrasound images indicate that fetal death has occurred, inform the pregnant woman
5 of that fact;

6 B. Display the ultrasound images so that the pregnant woman may view the images;

7 C. Provide a medical description of the ultrasound images, which must include the
8 dimensions of the fetus and the presence of external members and internal organs, if
9 present and viewable; and

10 D. Retain in the pregnant woman's medical record a signed certification from the
11 pregnant woman that she has been presented with the information required to be
12 provided under paragraph C and has viewed the ultrasound images or declined to do
13 so. The signed certification must be on a form provided by the department.

14 **2. Not viewed.** When the ultrasound images are provided to and reviewed by the
15 pregnant woman under subsection 1, nothing in this section may be construed to prevent
16 the pregnant woman from averting her eyes from the ultrasound images. The health care
17 professional, the qualified ultrasound provider and the pregnant woman may not be subject
18 to any penalty if the pregnant woman refuses to look at the displayed ultrasound images.

19 **3. Definitions.** As used in this section, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Abortion" has the same meaning as in section 1598, subsection 2, paragraph A.

22 B. "Health care professional" has the same meaning as in section 1596, subsection 1,
23 paragraph C.

24 C. "Obstetric ultrasound" or "ultrasound" has the same meaning as in section 1598,
25 subsection 2, paragraph D.

26 D. "Qualified ultrasound provider" means a person who is licensed or certified by a
27 board or commission established under Title 32 to perform an obstetric ultrasound.

28 **SUMMARY**

29 This bill requires a health care professional to ensure that a pregnant woman undergoes
30 an ultrasound and receives information about alternatives to abortion, including parenting
31 the child, at least 48 hours before she can have an abortion. The existence of a medical
32 emergency eliminates the 48-hour waiting period.