

MAINE STATE LEGISLATURE

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(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2132

S. P. 692

In Senate, February 3, 1978

Referred to the Committee on Judiciary and sent down for concurrence.

MAY M. ROSS, Secretary

Presented by Senator Collins of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

**AN ACT to Make Additional Corrections of Errors and Inconsistencies in the Laws
of Maine.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary such uncertainties and confusion be resolved in order to prevent any injustice or hardship on the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 1 MRSA § 402, sub-§ 3, ¶¶ C and D, as enacted by PL 1975, c. 758, are amended to read:

regulations made thereunder shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 6 months, or by both.

Sec. 45. 22 MRSA c. 263-B is enacted to read:

CHAPTER 263-B

ABORTIONS

§ 1591. Immunity and employment protection

No physician, nurse or other person who refuses to perform or assist in the performance of an abortion, and no hospital or health care facility that refuses to permit the performance of an abortion upon its premises, shall be liable to any person, firm, association or corporation for damages allegedly arising from the refusal, nor shall such refusal constitute a basis for any civil liability to any physician, nurse or other person, hospital or health care facility nor a basis for any disciplinary or other recriminatory action against them or any of them by the State or any person.

No physician, nurse or other person, who refuses to perform or assist in the performance of an abortion, shall, because of that refusal, be dismissed, suspended, demoted or otherwise prejudiced or damaged by a hospital, health care facility, firm, association, professional association, corporation or educational institution with which he or she is affiliated or requests to be affiliated or by which he or she is employed, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled nor shall submission to an abortion or the granting of consent therefor be a condition precedent to the receipt of any public benefits.

§ 1592. Discrimination for refusal

No person, hospital, health care facility, firm, association, corporation or educational institution, directly or indirectly, by himself or another, shall discriminate against any physician, nurse or other person by refusing or withholding employment from or denying admittance, when such physician, nurse or other person refuses to perform, or assist in the performance of an abortion, nor shall such refusal constitute grounds for loss of any privileges or immunities to which such physician, nurse or other person would otherwise be entitled.

§ 1593. Sale and use of fetuses

Whoever shall use, transfer, distribute or give away any live human fetus, whether intrauterine or extrauterine, or any product of conception considered live born for scientific experimentation or for any form of experimentation shall be punished by a fine of not more than \$5,000 and by imprisonment for not more than

5 years and any person consenting, aiding or assisting shall be liable to like punishment.

§ 1594. Failure to preserve life of live born persons

Whenever an abortion procedure results in a live birth, failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible party or parties to Maine law governing homicide, manslaughter and civil liability for wrongful death and medical malpractice.

§ 1595. Live born and live birth, defined

“Live born” and “live birth” as used in this chapter, shall mean a product of conception after the complete expulsion or extraction from its mother, irrespective of the duration of pregnancy, which breaths or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Each product of such a birth is considered live born and fully recognized as a human person under the Maine law.

§ 1596. Abortion data

1. Definitions. As used in this section, unless the context otherwise indicates, the following words shall have the following meanings.

A. “Abortion” means the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical, or the ingestion of chemical agents.

B. “Miscarriage” means an interruption of a pregnancy other than as provided in paragraph A.

2. Reports. A report of each abortion performed and a report of each miscarriage which occurs when a physician is in attendance shall be made to the Department of Human Services on forms prescribed by the department. Such report forms shall not identify the patient by name or otherwise and shall contain only the following information:

- A. Weight in grams of the fetus aborted, to the extent practical;
- B. Measurement in centimeters of the fetus aborted, crown to rump, sitting height, to the extent practical;
- C. When an abortion is performed, the medical procedure used to abort;
- D. Given menstrual age of fetus; and
- E. Any resulting medical complications.

The form containing such information and data shall be prepared by the attending physician, signed by him and transmitted to the department not later than 10 days following the end of the month in which the abortion is performed or the miscarriage occurs.

The identity of any physician reporting pursuant to this section is confidential and the department shall take such steps as are necessary to insure the confidentiality of the identity of physicians reporting pursuant to this section.

A physician who reports data on an abortion pursuant to this section shall be immune from any criminal liability for that abortion under Title 17, section 51.

Sec. 46. 22 MRSA c. 403, as amended by PL 1977, c. 110 and repealed by c. 457, § 4, is reenacted to read:

CHAPTER 403 TOWN HOSPITALS

§ 1761. Municipal hospitals

A municipality may establish and maintain one or more hospitals, nursing facilities, boarding homes or any other institution, place, building or agency for the care, accomodation or hospitalization of the sick or injured or for the care of any aged or other persons requiring or receiving chronic or convalescent care. Any such facility shall be subject to all statutes and licensing requirements applicable to the particular type of facility.

§ 1762. Temporary facilities

Notwithstanding the provisions of section 1761, in the event of an outbreak of any disease or health problem dangerous to the public health, the municipal officers or local health officer, with the approval of the department, may establish temporary health care facilities, subject to the supervision of the department.

Sec. 47. 22 MRSA § 3713, last ¶, as enacted by PL 1977, c. 577, § 2, is repealed.

Sec. 48. Effective date. Section 47 of this Act shall become effective June 30, 1978.

Sec. 49. 22 MRSA § 5112, sub-§ 2, as amended by PL 1977, c. 78, § 151 and c. 480, § 1, is repealed and the following enacted in its place:

2. Serve as an advocate on behalf of older people promoting and assisting activities designed to meet at the national, state and community levels the problems of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall be a spokesman on behalf of older people to the

- Sec. 16. To correct 2 inconsistent laws.
- Sec. 17. To correct an erroneous internal reference.
- Sec. 18. To conform statutory language to language of related sections.
- Sec. 19. To correct 2 inconsistent laws.
- Sec. 20. To reallocate a subsection.
- Sec. 21. To conform statutory language to legislation passed last session.
- Sec. 22. To conform statutory language to the Maine Criminal Code.
- Sec. 23. To correct a grammatical erroer.
- Sec. 24. To conform statutory language to legislation passed last session.
- Sec. 25. To correct a spelling error.
- Sec. 26. To correct 2 inconsistent laws.
- Sec. 27. To correct an erroneous internal reference.
- Sec. 28. To clarify statutory language.
- Sec. 29. To correct 2 inconsistent laws.
- Sec. 30. To correct 2 inconsistent laws.
- Sec. 31. To correct 2 inconsistent laws.
- Sec. 32. To reallocate a chapter.
- Sec. 33. To correct 2 inconsistent laws.
- Sec. 34. To correct 2 inconsistent laws.
- Sec. 35. To correct 2 inconsistent laws.
- Sec. 36. To correct 2 inconsistent laws.
- Sec. 37. To reallocate a section.
- Sec. 38. To correct 2 inconsistent laws.
- Secs. 39 & 40. To reallocate a subsection.
- Secs. 41 - 45. To reallocate 2 chapters.
- Sec. 46. To reenact 2 sections that were inadvertently repealed.