

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume II

First Regular Session

May 13, 1999 – June 19, 1999

Second Regular Session

January 5, 2000 – March 22, 2000

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require a 24-hour Waiting Period before an Abortion May Be Performed"

(H.P. 1483) (L.D. 2123)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
JACOBS of Turner
MITCHELL of Vassalboro
NORBERT of Portland
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-628)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. It's not with great joy that I reintroduce these pro-life bills to this Legislative session, it's not my desire to cause discomfort to anyone, but this issue is too important to me, constituents and the people of the State of Maine and must be addressed once again before this Legislature.

LD 2123 does not outlaw abortion, it merely places in safeguards that are completely reasonable so that the decision to have an abortion is made, all the steps will have to be taken to ensure that all the relevant information is being provided to assist the woman in deciding whether an abortion is indeed the right choice. Some have considered this bill to be restrictive, but I disagree completely. The abortion procedure is a procedure that involves two human beings, other medical procedures are very different when compared to abortion. Because we are dealing with a possibility of terminating the life of a human being, we should proceed with extreme caution to insure that any decision being made is based upon having complete information. Life is too precious to be discarded in a fight over Constitutional rights. What will LD 2123 do? This proposed legislation will include the proper provisions to insure that women considering having an abortion must be provided information about the risks, and the alternatives to abortion. This bill does not restrict access to abortions. It only provides time for the woman to access the information she will be provided and to consider the bill options prior to, rather than after having an abortion performed. After all abortion is not a reversible procedure. In the Casey decisions,

the Supreme Court stated that while the woman has some freedom to terminate the pregnancy, the line should be drawn at viability. This law provides women with the time and the information better to resist pressure to pain and unwanted or coerced abortion by providing information regarding alternatives to abortion and giving the woman time and an opportunity to consider and discuss such alternatives.

The United States Supreme Court upheld that a woman's right to know law, such as LD 2123 containing a waiting period do not violate United States Constitution. In Casey, the court upheld the Pennsylvania law, which requires a 24 hour reflection period before an abortion is performed. The woman be given the following information by the attending or referring physician, the name of the physician who is to perform the abortion, possible physical and psychological affects of an abortion, medical risks associated with the abortion procedure to be used, probable gestational age of the unborn child, the medical risks associated with carrying the child to term. That the woman be given the following information by the physician or his medical assistant, availability of assistance benefits, liability of the father for child support, right to review information prepared by the state that describes fetal development and the availability of pregnancy services.

Since Casey, federal courts have upheld woman's right to know laws in five other states. The argument that such laws present an undue burden on the woman was rejected in Casey, unless it places a substantial obstacle in the path of the woman seeking an abortion and the court ruled that providing information by the doctor or to be subjected to a 24 hour waiting period after reviewing information was not considered by the court to be undue burdens. Thus the arguments that this statute represents an undue burden is incorrect and has been rejected by the Supreme Court. The argument that providing this information by the doctor is unnecessary and represents and intrusion or a delaying tactic has also been rejected by the court. If we as legislators are truly to represent the people of Maine, we should enact this legislation to protect the lives and well being of the women who consider abortion and the unborn children. I am deeply encouraged that abortions are on the decrease in Maine and that teenage pregnancy is also on the decline. We still have a long way to go. Personally, I would like to see no abortions in Maine, but I'm too realistic to expect this to occur. This bill will bring us back to the realization that life is too short and should be lived to its fullest. To cheapen life to reduce its value will only perpetuate the attitude that life is worthless. It will only signify that it is easy to hurt, maim, or even to kill another human being. I know everybody in this body would love to have no violence and with this bill we can send the true message that life is indeed valuable and we should do everything humanly possible to preserve it.

Representative AHEARNE of Madawaska **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. If you pass this bill you are telling Maine women that the state is passing a presumption that they have not truly thought through their decision carefully enough and we're going to make you wait. You are telling Maine women who do choose

an abortion, one of the most difficult and personal decision that a woman can ever make, that the state is going to make you wait. The state is going to make you wait and the state is going to tell the doctor that in the state's opinion they're not giving informed consent to their patients, which is currently required by law, on every medical procedure. This bill serves no medical purpose or public health purpose. It is meant as an impediment to women who have chosen to have an abortion. That is what it is. If you choose to vote for that, than that is what you are voting for. Only three of Maine's 16 counties have clinics where abortions are routinely performed. You are telling a woman who travels to one of those clinics from a long distance that they have to wait another 24 hours. Is that what we want the state to be doing? People on both sides of this issue have stood up and said abortions are legal and yes the courts have said you can impose a 24 hour waiting period. Legally it's not going to be a burden, it doesn't arise to the constitutional level of an undue burden. Is it a rational burden that the state should be doing, placing on these women, I think not. I would ask that you join me in voting on the Majority Ought Not to Pass Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. To me what is 24 hours? So much can happen in 24 hours. I can't imagine why we would not give the baby an opportunity to live an additional 24 hours. Who or what may come into that mother's life in the 24 hour period. It seems so common sense to me. I would urge you to reject the Ought Not to Pass Report. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House. The problem from my point of view with the 24 hour waiting period is the assumption that a woman who is facing such a tragic decision hasn't thought it through. Maine women are intelligent, they elected us, they are capable of making their own decisions and there is no doubt that they have given great thought to this decision long before they have reached the point of coming to a clinic. We can trust Maine women to make their own decisions and we don't need to tell them that they must wait an additional 24 hours.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I just had to respond to the last comment on the floor. A lot of this people are not mature and they're not even women. A lot of them are young juvenile girls. Maybe I'm looking for some direction of what to do, in 24 hours waiting and getting proper information just might change their whole life and somebody else's life too and make it so that person doesn't have to live with the memory of destroying their child. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. I urge you to vote against the pending motion and go on to accept the Minority Ought to Pass. A little information can go a long way. Some years ago, a friend of mine who was pregnant was told by her doctor that she was pretty sure she had miscarried. She had bled extensively, cramped terribly and she was going to perform a D & C. My friend who was very torn needed to know that indeed she had had a miscarriage, so her

doctor took the time to send her for an ultrasound and the ultrasound showed a beating heart. The woman had only known she was pregnant for about a week, she was only about three weeks along, four weeks along, but there was already a beating heart. The woman's marriage wasn't that great. A baby would have been a great complication. It would have been very easy for her to take a D & C and assume she had had a miscarriage, but she didn't and when she saw that beating heart she realized she hadn't had any information at that point in her pregnancy except that she had had a positive test. She had no idea there was a heart beating already. She had no idea that this was not just a clump of cells. Suddenly it became real that there was a baby and that was an accident, that little bit of information, basically she just needed some reassurance that she wasn't pregnant anymore. The books she picked up and read after that were incredible and she shared them with me and we kept calling her our little walking science project because of the miracles that were changing within her every single day. The previous speaker spoke about young women who are looking for answers and you know some of those women are young women just old enough to get pregnant and they're not looking someone to tell them to have an abortion. They're looking for someone to tell them its okay not to have an abortion. It's okay to know that there are other things you can do besides have an abortion. Right now the pressure is incredible to have an abortion. On the other hand I'll tell you about a friend of mine who had four, you want to talk about this being the most difficult decision, she had four because she liked being pregnant for the attention but she never intended to carry a baby. When I asked my doctor about was this the most difficult decision women reach, she looked at me and said no, they come in here, they have abortions, they go home. There's no aches, there's no anxiety, you wouldn't believe it, it's not that difficult. Well I guess it isn't, if you don't know what's happening. Don't think that we're asking too much for someone to know what their options are and if you think women know everything, let me tell you about the pediatricians that have to teach young mothers that Karo syrup and milk is not an appropriate substitute for formula because that is a common misconception. You wouldn't believe how hard it is to teach a young mother how to take care of a child after the child is born. I'm not saying women are ignorant, but I am saying that some of the information that's passed on is not the best information for them and they need time to sort it out and they need support from someone when they're just looking for, you don't have to. Do you know you don't have to?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Mr. Speaker, Men and Women of the House. I rise in support of the Majority Committee Report and also rise to say that I trust Maine women. The biggest issue here in this bill is that it's potentially dangerous to the women of this state. Mandatory delays increase the risk of complications to the woman and to the pregnancy so we are forcing them to a situation that could potentially put their health at risk. The good Representative from Naples, Representative Thompson, already addressed the remote nature of this state, which should be of no surprise to anyone. We had a woman come in to testify from Washington County. For a woman to access services in Lubec, Eastport, Calais or Machias, it would take her over three hours to reach the nearest provider. There are no providers in Washington County and the only provider in Hancock County is the private service, she sees only her own patients, so we are

most likely looking at the need of an overnight stay in the area where these services are provided. This is a significant financial burden on the women in this state.

The other issue that has not been brought up here yet tonight is abusive relationships. In the cases of rape or incest, the need to get an abortion may be immediate. The violator of the woman may very well resort to force to keep that woman from getting the abortion that she may feel she needs. So once again, ladies and gentlemen, I ask you to trust the women of this state, they are going into this with their eyes wide open and this 24 hour waiting period is a new burden.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I didn't speak on the last bill that concerned abortion, but I think that I should go on record, because I have every session that I have been here. What is of utmost importance to me is that there remain sphere of privacy, some place where government does not intrude, some place where we are able to make choices for ourselves, without having the government's heavy hand and certainly these matters are very deeply held, some influenced by religious beliefs, some influenced by secular ones, but certainly there must be some place where we can make decisions for ourselves, with those who we choose to consult, our doctors, our religious leaders, our friends and not have them legislated to us by strangers. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 261

YEA - Bagley, Baker, Belanger, Berry RL, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Collins, Colwell, Cowger, Daigle, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McDonough, McGlocklin, McKee, McKenney, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Pieh, Powers, Quint, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearn, Andrews, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Bumps, Campbell, Carr, Chizmar, Cianchette, Clark, Clough, Cross, Davis, Desmond, Duncan, Frechette, Gerry, Gillis, Glynn, Heidrich, Joy, Kasprzak, Kneeland, MacDougall, Mack, Madore, Martin, Matthews, McAlevey, McNeil, Mendros, Murphy E, O'Brien JA, O'Neal, Pinkham, Plowman, Richard, Samson, Sanborn, Savage C, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stedman, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Cote, Goodwin, Labrecque, Perry, Povich, True, Tuttle.

Yes, 86; No, 57; Absent, 8; Excused, 0.

86 having voted in the affirmative and 57 voted in the negative, with 8 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require Parental Notification for Minors Seeking Abortions"

(H.P. 106) (L.D. 137)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
JACOBS of Turner
LaVERDIERE of Wilton
NORBERT of Portland
MITCHELL of Vassalboro
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-626)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madawaska, Representative Ahearn.

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you not to accept the pending motion so we can pass this piece of legislation.

Today our children require permission slips from parents to participate in high school athletics, extra curricular activities, and even when they are seventeen to join the military service. Why then is there any question regarding the proposed requirement of LD 137. That parental notification be required in such a form as to be meaningful when the minor seeks to have an abortion. Is not having an abortion more likely to have an adverse impact on the child than playing basketball, or being in the band. We impose restrictions in the interest of the minor's welfare in many activities, but yet we balk at requiring parental consent, or even proper notification when a minor seeks to have an abortion. Where is the logic or are we just simply picking the least line of resistance when confronting with vocal pro-abortion advocates. We are clearly imposing double standards, next we will probably be asked to remove the parental permission requirement from all activities as an infringement of children's rights while ignoring the child's right to have a sense of discipline, a proper education, learning right from wrong, a secure and loving home and proper guidance. This legislation does not restrict abortion, but it rather insures that before abortions are permitted for minors proper steps are taken to secure parental notification and to allow the parents time to console the minor. The inclusion of the provision for judicial bypass provides a remedy for those minors suffering