

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

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On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#86)

YEAS: Senators: BENNETT, BLAIS, CARPENTER, CATHCART, DAMON, DAVIS, GILMAN, HATCH, LAFOUNTAIN, MITCHELL, NASS, SAVAGE, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, DOUGLASS, EDMONDS, GAGNON, HALL, KNEELAND, MARTIN, MAYO, PENDLETON, ROTUNDO, SAWYER, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senator: LEMONT

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, **FAILED**.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#87)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, EDMONDS, GAGNON, HALL, HATCH, MARTIN, MAYO, PENDLETON, ROTUNDO, SAWYER, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, CARPENTER, CATHCART, DAMON, DAVIS, DOUGLASS, GILMAN, KNEELAND, LAFOUNTAIN, MITCHELL, NASS, SAVAGE, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **BRYANT** of Oxford to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Minority **OUGHT NOT TO PASS** Report, **ACCEPTED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/20/03) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Amend the Abortion Consent Laws" S.P. 277 L.D. 798

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-194)** (6 members)

Tabled - May 20, 2003, by Senator **TREAT** of Kennebec

Pending - motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 20, 2003, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gilman.

Senator **GILMAN:** Thank you, Madame President, men and women of the Senate. I rise today in opposition to the Ought Not to Pass motion on L.D. 798. L.D. 798 proposes to amend existing laws. I have distributed a copy of the current law to each of you today. It should be on your desk. I will refer to 2-C, the doctor is required to give the particular risks associated with her own pregnancy and the abortion technique to be performed. In abortion clinics across the state there is inconsistent and very limited information being given to women today. This bill simply amends the law to add information regarding the risks associated with abortion that presently women are not getting. It allows for the woman to be given a brochure of the risks of abortion to take home and reflect on this very important decision. They then come back in 24 hours. This follows similar legislation that was enacted recently in regards to dentists giving us a brochure of the risks of having a tooth filled, possible allergic reactions. I also have distributed a handout this afternoon that has pertinent information about this. The brochure can also be given to the woman by either a social worker, a nurse, or a physician assistant. All it does is entrust women with the information they need in order to make an educated decision about what is the right choice for them. This amendment does not remove choice. The amendment also allows for the woman to be provided with the name of the doctor who will be performing this procedure.

Some will claim that this bill is unnecessary because current law provides that women receive some information about the procedure. However, eight post-abortive women testified at the public hearing that the information they were given was very limited. I also have a document signed by seven OBGYN RNs from Maine Medical Center of this fact. These nurses stated that they are very concerned that women are not being adequately informed. There are 21 states that already have this legislation in place with others soon to follow. I have the volume of these laws right here on my desk.

We had an actress, Charnette Messe, and her husband, a medical doctor, Tom Messe, come from Connecticut to testify of Charnette's personal struggle after having an abortion. She had

an abortion at age 20, breast cancer at 30, and the day after she was diagnosed with cancer, discovered she was pregnant. She gave birth, prematurely, to a beautiful son, who is now six months old. Charnette has been on Oprah and on the cover of a leading medical magazine. She has a full page photo in Rosie magazine. She and her husband have definitely found the proven link of the abortion, breast cancer, and the premature birth. They submitted a very prestigious document, the Elliot Report. This was compiled by leading OBGYN, psychiatrists, and psychologists in this country. There are at least 25 risks recorded in this document. Among them are breast cancer, premature birth, sterility, and a compromised cervix. There are many more. It goes on and on. Depression, grieving, and suicide. We had a law professor, Dwight Duncan, a graduate of Harvard University, testify of the constitutionality of the amendment, L.D. 798. Also, a very convincing group came forward and testified at the hearing. They were Feminists for Life. They gave very compelling testimony of their stand on the affects of abortion on women.

This issue crosses party lines. People on both sides of the aisle stand together in a concerted effort to see that women of Maine receive the information needed to make an educated and informed decision. If we truly care about women, why would we not chose to give them all the information needed to help them with this important decision? This legislation has been brought forward because women have decided to be silent no more. Maine women deserve better.

Once again, I urge you to vote against the pending motion so we can go on to pass the Ought to Pass report. Thank you.

Same Senator requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. As the good Senator from Cumberland, Senator Gilman, has mentioned, this is not a matter of eliminating personal choice, it's a matter of ensuring that women receive the information they deserve to make an informed decision about their health. As much as the opposition will claim that the present laws are adequate, women are simply not being given the complete information they need to make an informed decision. This is a choice of informed decision. It is not a matter of whether or not we're eliminating or approving abortions. It is solely a matter of whether or not we are making an informed decision prior to the abortion being performed. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator **PENDLETON:** Thank you, Madame President, men and women of the Senate. This issue comes to us every couple of years. It's always an emotional issue and a very difficult issue for all of us. However, I will point out to you that the majority of the committee felt that this piece of legislation, at this particular time, is not necessary. This legislation will come to us as long as we don't have a way of preventing pregnancies, I imagine.

However, I do need to point out something that I think is very important. The relationship between a physician and a patient includes much private and personal discussion. Even the Maine Medical Association opposes any legislation or regulatory interference with this relationship. I suppose if we pass this law,

what will happen is a woman would make an appointment with a physician to discuss the abortion. She would go in and discuss the procedure with the physician. She would be given written information or oral information and be required to come back in 24 hours for the procedure to be done. Right now, in Maine law, that has to be informed consent on any procedure, whether it's a tiny little procedure or a really massive procedure. We already have informed consent in place. I think that if we try to adjust this piece of legislation now, the way it is on the books with this bill, we will, in fact, just be interfering and regulating the patient-physician relationship. That is the reason I stand where I do on this piece of legislation. I hope that you will join me in voting for the majority Ought Not to Pass report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gilman.

Senator **GILMAN:** Thank you, Madame President. In respect for my dear colleague, the Senator from Cumberland, Senator Pendleton, I would like to rebut some of her comments. There is an informed consent given. I have it right here from Planned Parenthood. It specifies certain things that the woman could expect: bleeding, severe bleeding, infection, there could be some risk with the anesthesia, or the possibility of death, which is very much diminished in that report. It is estimated that there are 40 women who die every year from abortions.

Also, on the other comment that she made, the relationship with the doctor isn't present, from what I have heard post-abortive women tell me. They see a social worker when they go for the abortion. They only see the doctor when they are in the room, under anesthesia. They are given light anesthesia so they are awake. They only speak to a social worker. There is no relationship with a doctor, based on any testimony that I have ever gotten. I truly believe all of these women are giving me the facts as they experienced them. Thank you very much.

On motion by Senator **GILMAN** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Weston.

Senator **WESTON:** Thank you, Madame President, ladies and gentlemen of the Senate. We place a high priority on disclosure. We want businesses to disclose everything in a contract clearly. We want telephone companies to disclose their rates clearly. We want our dentists to make sure that there is not just a verbal discussion as a part of your relationship with him. We actually debated for hours the fact that there needed to be something in print, something very clear. We passed a statute about that. We know that there are great risks involved in the kind of surgery that an abortion brings. We can do so much more for the women who are going to consider that. Give them the full disclosure. That's all this bill asks for. It is what we expect for a phone bill and for any contract. How much more should we support something that is going to bring a far greater catastrophe if they do not understand the risks and have the decision that they make based on facts?

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Turner.

Senator **TURNER**: Thank you, Madame President, ladies and gentlemen of the Senate. I don't think there is anything that I can add to this discussion that will change anyone's mind on the vote that we're going to take. I do feel that the doctors' relationship with the patient is paramount in this matter. As some of you know, I have a physician in my family. She is bound by the AMA code of ethics and informed consent is paramount in her mind. No doctor is going to undertake any treatment for anything with any patient without ensuring, in their mind as a physician, that the patient understands what they are going to be doing and the consequences of the action they will be taking. I think that has worked very well in Maine. It continues to work very well in a number of other places. I also believe strongly that there is not a person in this room who would not like to see the number of abortions in this country, or anywhere, driven absolutely to zero. As we continue to educate people and make progress, I think that we have made significant progress, continuing now. My figures may not be totally correct, but I believe if you go back a couple of decades in this country, we were performing in excess of 2 million abortions a year. Whether you are on the choice side of this matter or the life side of this matter, I think in many places, and many environments, people have come together to try to figure out how to reduce the need. I believe that is where our focus should be. Let's allow the physician and the patient to continue the relationship they have today on this matter and other matters. Thank you very much.

THE PRESIDENT: The Senator from Cumberland, Senator Gilman, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **GILMAN**: Thank you very much, Madame President. Again, I would like to address my colleague from Cumberland, Senator Turner. From the testimony I've heard from women, they have no relationship with the doctor. They don't see the doctor before or after. They don't even have the doctor's name. In our amendment, that is one thing we were asking for. The woman would have the doctor's name. I certainly agree with you, Senator, that we should have a good relationship with our doctors and I would hope that this action might help encourage that. Right now, today, in Maine, any woman that I have ever talked with has no relationship with the doctor. She only speaks with a social worker. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Mitchell.

Senator **MITCHELL**: Thank you, Madame President, ladies and gentlemen of the Senate. I rise in support of the excellent medical physicians, staff, and surgeons that we have in this great State of Maine. I applaud them for their efforts; the new technology that they have brought to us; the excellent health care that they give; for the many women's health clinics that have been opened throughout our state that we did not have a few years ago; and for the guidance that they are giving our women in health care. I would like to bring to the attention of the proponents of this bill that the American College of Obstetricians and Gynecologists, our Maine Medical Association, and the many doctors, a majority, follow the American Medical Association's code of medical ethics. The physician must enable the patient's

right to make his or her own determination and they must explain in full to the patient what this patient is going to undergo. They must recommend parental guidance and encourage that. I would say that we must encourage the majority Ought Not to Pass in this particular case and support our medical professionals that we have in this state and give them the credit and trust that we all put in our individual doctors and physicians. We must certainly applaud the effort of the improved women's health care with our Bureau of Health that we have now, with the Office of Women's Health, and the many clinics that have been opened in this state to assist us.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Pendleton to Accept the Majority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#88)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CARPENTER, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MAYO, MITCHELL, PENDLETON, ROTUNDO, STRIMLING, TREAT, TURNER, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, DAVIS, GILMAN, KNEELAND, MARTIN, NASS, SAVAGE, SAWYER, SHOREY, STANLEY, WESTON, WOODCOCK, YOUNGBLOOD

ABSENT: Senator: LEMONT

21 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **PENDLETON** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

All matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/20/03) Assigned matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act To Prohibit Discrimination in Housing" S.P. 287 L.D. 892

Majority - **Ought Not to Pass** (7 members)