

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 Twenty-Fifth Legislature
State of Maine

Daily Edition

First Regular Session

December 1, 2010 – June 29, 2011

pages 1 - 1067

57 having voted in the affirmative and 88 voted in the negative, 1 vacancy with 5 being absent, and accordingly the **Minority Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the **Majority Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-469)** - Committee on **JUDICIARY** on Bill "An Act To Require a 24-hour Waiting Period prior to an Abortion"

(H.P. 98) (L.D. 116)

TABLED - June 3, 2011 (Till Later Today) by Representative NASS of Acton.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED** Report.

The **SPEAKER**: The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like your attention for two minutes. As a teacher I'm used to asking that. You know in life we have many times that we do overs. I did overs this morning getting dressed deciding what to wear. I made a choice for lunch and decided it was a bad choice and I'm never going to order that sandwich again, but I can make another choice the next time I go to that particular place. I play solitaire and I do over and do over until I can say, yes Joanie, you're a winner, because I can keep doing it until I can make it come out, because I know how to cheat on that computer by doing it over and making do, and I know how to do that because I know the decision-making process. We all learned that, that we define our problem and that we consider all the alternatives. We define our alternatives, we consider them, we weight them and they we say, choose one, do it, and then evaluate it.

Unfortunately, death you can't do over, and all I ask is that with this amendment that people have a chance to think 24 hours. When I go to the doctor's and hear something I need to register that for 24 hours. A young person that I've taught in school, when they are in the situation of having turned the stick blue, they want instant gratification and a do over quickly. They don't think about the consequences that that decision they make may mean, whether or not they ever have children again, because every child is precious. They just need to think about it. I'm not judging you because I don't know what's in your heart and you don't know what's in mine. We don't walk in each other's shoes. I honestly think that I wore black today in my decision-making process because to me it was very sad that we are in this House discussing something like this, when it should be between you and your God. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Easton, Representative Clark.

Representative **CLARK**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is my bill. I didn't put this in because I have an agenda. I didn't put it in because I want to end abortions. It's not what this is about. I put this in because a really good friend of mine was 18, she was pregnant and she went to a clinic, and when she was there she told them that she was pregnant, she told them that she was going to college, and the nurse tried to talk her into having an abortion. She said that the nurse told my friend that she would ruin her life if she had that child, she could still go to school if only she would have an abortion, it's an easy process, we can take care of you. That's the reason why I put this in. This isn't trying to say that women don't think about having an abortion. I know

the vast majority of them do and the only argument that has been presented against this is that it already takes place.

There is already a waiting period because they get referrals. It is common practice for these clinics not to give abortions within 24 hours, but it is not against the law. Any doctor in the State of Maine can give an abortion and it is very possible that they might think that it's in that woman's best interest if she has an abortion, and if I let her go home, she might change her mind. So they could influence her and a doctor is someone of a position of power and someone young and scared and just found out that day that she was pregnant, it could influence her decision, and that decision should be made by the woman. It's their choice, not the doctor's, not anyone else's. It's their's. And because it's already common practice to wait at least 24 hours before abortion takes place, I don't think it's irresponsible for us to put this in law and I believe it's a consumer protection because it will prevent situations, like what happened to my friend, from happening in the future. That's the reason I put it in. I have no intention of stopping abortions because it's not within our power, and I think this will help people in the future and that's why I thank you for your time.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Sanborn.

Representative **SANBORN**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One serious consequence of this bill would be to increase the number of second and third trimester abortions, which I doubt is what this bill's sponsor is intending. We know this because in Mississippi, who passed a mandatory 24-hour delay law in 1992, an analysis of abortion data from the state demonstrated that the proportion of second-trimester procedures increased by 53 percent, from 7.5 percent to 11.5 percent of those abortions performed.

Realize that in practice, women do not go to the doctor's office to get an abortion on the same day unless there is a serious emergency. Women will first go to their primary care provider or OBGYN for a consult, confirmation and dating of her pregnancy, and be counseled about her options. If she so chooses, she may be referred to an abortion provider. In Maine, there are only three public abortion providers. All of these providers offer abortion only once a week. Requiring a second visit with the abortion provider means a third doctor consult, another day off work, another day arranging child care, and possibly another overnight stay in the provider's town. If an abortion becomes delayed into the second or third trimester, a patient will likely have to travel to Boston. This is all cost prohibitive for poor and rural women, further increasing health care disparities.

Despite what some will tell you and we're already discussed it here today, having a first trimester abortion is lower risk than carrying a term pregnancy. The medical complications do increase, however, by 20 to 30 percent after the 8th week of pregnancy. The better alternative is to support current Maine law, support Planned Parenthood, family planning clinics, school health clinics, and sex education in our schools and work toward universal health care. It is critical to make sure that contraceptive information is readily available to all women and their partners. This is a surer way and a safer way to reduce abortions, a goal we all believe in. Thank you.

Representative **MALONEY** of Augusta **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority Ought to Pass as Amended Report**.

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

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Maloney.

Representative **MALONEY**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be voting to have government less involved in people's lives, not more involved, and I'm going to be voting for less government regulation and no more government regulation.

A 24-hour waiting period, as we've heard, is unnecessary. There are three public entities that provide abortion: Planned Parenthood in Portland, Family Planning Association in South Portland and Augusta, and the Mabel Wadsworth Women's Health Center in Bangor. Each of these is open one day a week. We heard at the work session in Judiciary that Family Planning Association has only performed abortions on the same day twice, that in one case the woman in question was accompanied by her husband and her mother. She thought was scheduled at Planned Parenthood but she had the wrong day. Planned Parenthood was closed so she called Family Planning and they were able to accommodate her. In the second case, the woman was suffering from extreme hyperemesis, the symptoms of which are uncontrollable vomiting. Her doctor recommended an immediate abortion.

The point is that we don't have a problem here in Maine, that women are putting in the time and thinking about this beforehand. But under this bill, women would have to do two trips to the doctor, even if that means a five hour drive one way. We learned from the experience in other states that show that a 24-hour waiting period does not decrease the number of abortions and this was particularly important to me. Instead what it does is it increases the number of second and third trimester abortions, which are far more dangerous. So women are thinking long and hard about this and whether or not I agree with a woman's decision, I cannot vote to make that decision for her. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lisbon, Representative Crafts.

Representative **CRAFTS**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. How many times have each one of us in this room come to a decision in our lives, on a major decision that we were trying to make and we slept on it, and then the next day we made a different decision? I would be surprised if it hasn't happened multiple times to every one of us here. What's wrong with giving her some time to think about it, maybe to talk to somebody? I don't understand. This is very reasonable legislation. I ask that you support it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Foster.

Representative **FOSTER**: Thank you, Mr. Speaker. Mr. Speaker, Fellow Colleagues of the House. I seldom rise, but I feel this is a very important issue and I certainly do not sit in judgment of anybody here. I know you know what's in your heart and I certainly know what is in mine. I am a mother of four children and a grandmother of nine. Why wouldn't one day, 24 hours, be as important or even more so to a young woman making a life-altering decision, one for her life and the life of her unborn child? There isn't any question that this is a painful journey for many women and perhaps the outcome will not change, but the time of awareness may reveal a personal revelation eliminating any regrets which could loom perilously throughout her life. As a society we're willing to protect vernal pools to keep viable frogs and salamander eggs safe. We rescue endangered species. Progress stops at the sight of a spotted owl on her nest. We champion the cause for dogs and cats that have been neglected and abused. There are campaigns to save the dolphins and the whales. And we should, we should do these things. They are a vital part of our ever evolving ecosystem and we do this because we care. That's what we do as human beings, but what about our own? Let's not fail in our

responsibility to the unborn and the young women who need our support and protection by offering them a real choice. This shouldn't be political. This is reasonable. A day, 24 hours, that could make a big difference. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Acton, Representative Nass.

Representative **NASS**: Thank you, Mr. Speaker. When I rose before, I guess I was thinking from my heart rather than my brain when I failed to mention why I put in the amendment, and the fact is my good colleague, committee member, mentioned that there are many people that cannot go to clinics and it would take days to get there. The purpose of this bill was so that someone could go to their family doctor and get facts. You know, as I said before, young people want instant gratification. If you're not wanting that pregnancy, you want it over, you're not wanting to hear all of the facts, you need to just have a moment to think about it and by going to the doctor first you're not going to have the travel problem. I keep hearing about statistics in Mississippi. I have yet to hear the statistics in Maine. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from New Gloucester, Representative Espling.

Representative **ESPLING**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just rose because I heard some information coming about second and third trimester abortions. I find it interesting that we're worried about having a 24-hour wait when you have to call to make an appointment and sometimes you can't get your appointment for a week, and we're worried for a 24-hour wait pushing someone into a second or third trimester? If you're making an appointment and your appointment is for a few days later, aren't we making that same risk of jumping into a second or third trimester? So I kind of find that interesting because you do have to make those appointments and as the good Representative said, I'm not sure which one, but that many times as there were only two cases where women got the abortion the same day, this is a protection in the law for when this doesn't happen like it should, and that it what it is. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. A number of us in this debate have talked about the natural human need to think twice before we act. I think in decisions of this sort that we're talking about here tonight, that would be eminently responsible and reasonable. But the difference is that here tonight we're not talking about the human need to think twice before we act. We're talking about the government telling a person, a pregnant woman, that she must think 24 hours before she acts. I would suggest there is a world of difference between us taking it on as a matter on reason and thoughtfulness, personally to take responsibility and think twice, but to interject the government into that equation, to say that government is telling you to think twice before you act, I think there is a world of difference. It's not the same thing at all. For that reason alone I hope that you will reject the Ought to Pass Motion that's on the floor. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Hallowell, Representative Treat.

Representative **TREAT**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I just wanted to say that I am opposed to the pending motion, I am opposed to the bill, and I listened to a number of people here tonight say how we don't want to go back to the Victorian days and that these bills, this one we're talking about right now is to move to this new day, and frankly, I find it to be quite the opposite. This bill seems, to

me, to be exactly coming out of the Victorian period. I'm not aware of any other medical procedure, certainly no medical procedure that a man has to make a decision about whether or not to undergo, where there is a government-mandated waiting period so that that man can cool off and think things through. I'm sure that the legislator from Augusta, Representative Foster, didn't mean it that way, but to compare women to our protective attitude towards kittens again, it just speaks to me of something that is treating women differently.

These are very difficult decisions to make, they are not taken lightly, and as others have stated, others who represent districts in this state that are much further away from medical services than mine, these are medical decisions that are not actually logistically very easy and a 24-hour waiting period for some people will in fact turn into a waiting period of much longer length. This is truly unnecessary legislation.

We heard from the Representative from Brunswick, Representative Priest, who read out Maine's law. Maine has very comprehensive laws which we have had in place for many years. We're tweaked them here or there. They do work. We are not in New York City. It's true we are not Mississippi, but we're actually a lot more like Mississippi in terms of being a rural place than we are like New York City. I think that the majority of the Judiciary Committee did the right thing when they voted Ought Not to Pass on this bill. I urge you to vote against the pending motion so that we can go on to adopt the Majority Report in this bill.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative BURNS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I find this to be really tough stuff because it's serious stuff. It's life and death issues. I was just thinking about this 24-hour waiting period listening to everybody. I have two daughters. I don't have an 18-year-old daughter, I wished I did, but I have two wonderful daughters that are grown. But I remember the days well when they were 18 and if I had a daughter right now that was 18 and she came to me and she said, dad, I just saw a car I want today, my first car, I know my counsel would be to her that's great, you think about it tonight. That would be my advice and I'll go with you tomorrow and take a look at it. I guess I would ask to just indulge me and take a moment and think about your young daughter, if you have one, if you're blessed to have one, 18 years old, and came to ask you, your counsel, about getting an abortion because she has an untimely pregnancy. Would you suggest to her that she wait a day and think about it, think about the options, try to have a clear head? I don't know what your answer is. I know what my answer is.

I wonder, I really do wonder why it is that we are so entrenched, so entrenched on our positions on this issue that we're not willing to try to come together and find something that's better than what every one of us wants, and I've heard almost everyone that I've talked to about this say abortion is not a good thing, but it is necessary, it is the law of the land, sometimes it has to happen apparently. Why can't we come together and find something that works better for women? Why do we have to be so entrenched in our individual positions so that there's no movement? Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative HARMON: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to say thank you to Representative Sanborn from Gorham for releasing that information. It's some information I didn't know about. This issue is hard for me. Many people know I'm a big believer in the free market. As I was a student looking at those

things, I always said what are the times you need to rein in on the free market, when do you have to pull the reins back? When I think about when you think of organizations, whether it be government or nonprofit organizations or profit organizations, what is the best way for them to survive, to always offer more services? When it comes to organizations like Planned Parenthood, what do they have to do to operate, to offer more services and expand? That's how they get more income. Taking that argument a step further, abortions, if they can expand abortions, it's a constant thing. That's how organizations survive. That's what capitalism is.

In this case, as I've told you in my speech before, life needs to trump everything and when you have a free market it also means expansion of an organization, when they're so able to, and offer more abortions, they can get more income and more services. We need to think about that. I think, by requiring a 24-hour period, that makes people stop and think and wait, especially for the individual. Perhaps maybe someone at an abortion clinic may have a change of heart one day, so that's the struggle I'm at and it's a moral struggle and I just think it's something that we need to think about. But, in this case, will the free market belong?

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative McClellan.

Representative McCLELLAN: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is the third time on the three bills that I've risen and I guess I want to apologize first. This is really difficult and I know my soul has ached for a week, Mr. Speaker, thinking about today and having to do all this, and so if I've been accusatory to anybody I do apologize. As I look around the room I see, I just wrote my wife on an email how quiet it is in here, and the quiet is loud. This is very difficult and I appreciate that on all sides and for each person, and I think we're doing a great job of this discussion tonight.

Mr. Speaker, I had an interesting experience last night. I left here, I got in my truck, I started heading south on the Turnpike and a couple miles down the road I saw flashing light, a police car behind me. There was actually a car between us so I realized pretty soon that, plus I had legislative plates so I probably was alright, and I watched the police car and this car come towards me from behind and then slowly pass me. Of course, I slowed down. I got down to about 60 and I watched this old car and this police car just kind of slowly pass me and then kind of get in front of me and then keep going. They were going faster than I was, but again, because of the police car it slowed down, so they got kind of ahead of me. At some point I kind of got back in their vision and all of the sudden I realized it was three police cars following this car. I get off in Auburn to go home to Raymond and when I came to Auburn, if you go down that way, right now there's a lot of work going on, there's kind of a tunnel, you've got to go through some cones, and I could see another police car coming off the Auburn exit to get into the pack, and at that point, I lost it, I headed home, I told my wife about it. No idea what happened.

This morning on the news I read a story, I think, out of Winthrop that a young man, a 32-year-old man, shot his wife and killed her and actually did it in front of their two young children, and then hopped in his car and took off and headed down the highway, and just the way fate had it, I happened to be in the way, they went by me, and apparently at the end of this time, whatever happened, the young man shot himself and killed himself. It's a horrible story and I don't know if that's all the facts. I mean I'm putting together what I saw and what I read in the newspaper, but it just strikes me now knowing all the pain that

that family is going through, I bet if they just had a little more time to process and kind of talk through whatever happened, and I have no idea what happened, if they just had a little more time that they would be really appreciative.

You know I see we as a government, we do mandate limits sometimes. We do. We tell people how much they can drink. We tell them how much they can drug or they can't drug. We tell them how fast they can drive. We do put limits at times and so again, I wonder, why the rush? I've heard a few people say, well, if you had this 24-hour limit, then you've got to wait a week, and all of a sudden, it's way down the highway. I'll be honest. My hope in this bill is that if somebody leaves for 24 hours, they're not going to come back, and that's what my prayer is and so I offer that to you. Again, I thank everybody here for the respect we're offering each other and I definitely acknowledge how hard this is. So thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Pilon.

Representative **PILON**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to speak on this topic, however the good Representative from Palermo is portraying the Planned Parenthood organization as an abortion clinic, and that is totally a misconception. Planned Parenthood, he would be surprised to learn, is an organization that offers many services to a very diverse group of people. It offers, it is the first line of public services, first for it offers people that don't have the ability to pay services like examinations, a wide variety of examinations that they would not otherwise have the ability to have available to them. It also provides services to men.

Planned Parenthood is available throughout the State of Maine and they charge, if you have the ability to pay, if you have insurance, that's great. If you can pay, pay what you can. If you can't pay, pay what you can. But they also have people that have made donations to the organization and those organizations, those monies that have been set aside will pay for the people that are not able to pay their bills. So it is a very charitable organization. It pays for male and female and it is, in most cases, the first line of medical treatment for both male and female. So I don't want people to feel that it is purely an abortion clinic. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Hamper.

Representative **HAMPER**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My daughter is 30. She's brought to me my grandson, who is almost six now. My son is 22 and another grandson on the way. I would not have this family if their mothers had chosen an abortion, for we adopted. Just like the Representative from Raymond, my wish, my prayer on this is that a 24-hour waiting period would delay it and that other families can be completed and grown through the adoption process. A 24-hour waiting period before you kill another human being, I think, is a very reasonable request. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Prescott.

Representative **PRESCOTT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'm going to read a couple of words to you. The word "suggest" versus the word "require." The word "recommend" versus the word "mandate." The word "ponder" versus the word "must."

It was asked, what would I do? Does anyone in this House have an 18-year-old daughter or a 19-year-old daughter? I do. I have a 19 and a half-year-old daughter and I have a 16-year-old daughter. So what would I do if my daughter were in that

situation? I would suggest a waiting period or more than a waiting period. I would offer to help. I would offer advice, whether it's my daughter, whether it's a close friend, a neighbor, or even an acquaintance that happened to come my way so that they're informed and that they're sure of this very, very difficult decision.

But the fact that government is the one who is making this mandate, they're taking away that right to choose no matter how long it takes a woman to decide what is best for her, the fact that government is the one making this choice is something that I cannot support. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Palermo, Representative Harmon.

Representative **HARMON**: Thank you, Mr. Speaker. I guess I could answer one question of why government would be involved in that situation and the situation is that the child has no one to speak for it sometimes. There are many, many people out there waiting for adoption. That's what government is there for. Government is there to protect life, to protect liberty, to protect private property, and some would say, the pursuit of happiness. That's what it's there for, life. Please contemplate on that. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 138

YEA - Ayotte, Bennett, Bickford, Black, Burns DC, Burns DR, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Damon, Davis, Dow, Dunphy, Edgcomb, Espling, Fitzpatrick, Foster, Fredette, Gifford, Guerin, Hamper, Harmon, Harvell, Johnson D, Johnson P, Keschl, Knight, Lajoie, Long, Maker, Malaby, Martin, McClellan, McFadden, McKane, Morissette, Nass, Newendyke, O'Connor, Olsen, Parker, Picchiotti, Richardson W, Rioux, Sanderson, Sarty, Sirocki, Theriault, Timberlake, Turner, Tuttle, Volk, Waterhouse, Weaver, Willette A, Winsor.

NAY - Beaudoin, Beaulieu, Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Fitts, Flemings, Flood, Fossel, Gilbert, Goode, Graham, Harlow, Haskell, Hayes, Herbig, Hinck, Hogan, Hunt, Kaenrath, Kent, Knapp, Kruger, Kumiega, Libby, Longstaff, Luchini, MacDonald, Maloney, Mazurek, McCabe, Morrison, Moulton, Nelson, O'Brien, Parry, Peoples, Peterson, Pilon, Plummer, Prescott, Priest, Rankin, Richardson D, Rochelo, Rosen, Rotundo, Russell, Sanborn, Shaw, Stevens, Strang Burgess, Stuckey, Tilton, Treat, Valentino, Wagner R, Webster, Welsh, Willette M, Wood, Mr. Speaker.

ABSENT - Celli, Gillway, Hanley, Innes Walsh, Lovejoy, Wintle.

Yes, 63; No, 81; Absent, 6; Vacant, 1; Excused, 0.

63 having voted in the affirmative and 81 voted in the negative, 1 vacancy with 6 being absent, and accordingly the Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

Subsequently, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (4) Ought to Pass as Amended by Committee Amendment "A" (H-468) - Committee on JUDICIARY on Bill "An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons"