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Senate Legislative Record

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

First Special Session

Beginning April 5, 2023

Beginning with Page S-387

ROLL CALL (#482)

YEAS: Senators: BAILEY, BALDACCI, BEEBE-CENTER, BENNETT, BRENNER, CARNEY, CHIPMAN, CURRY, DAUGHTRY, DUSON, GROHOSKI, INGWERSEN, LAFOUNTAIN, LAWRENCE, LIBBY, NANGLE, PIERCE, RENY, ROTUNDO, TIPPING, VITELLI, PRESIDENT JACKSON

NAYS: Senators: BRAKEY, FARRIN, GUERIN, HARRINGTON, LYFORD, MOORE, POULIOT, STEWART, TIMBERLAKE

EXCUSED: Senators: BLACK, HICKMAN, KIEM, RAFFERTY

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 4 Senators being excused, **PASSAGE TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENTS "A" (S-291) AND "B" (S-436)**, in **NON-CONCURRENCE**, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Today (7-6)An Act to

Improve Maine's Reproductive Privacy Laws
H.P. 1044 L.D. 1619
(C "A" H-700)

Tabled - July 6, 2023, by Senator **VITELLI** of Sagadahoc

Pending - **ENACTMENT**, in concurrence (Roll Call Ordered)

(In Senate, 6/27/2023, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-700)**, in concurrence.)

(In House, June 27, 2023, **PASSED TO BE ENACTED**.)

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Stewart.

Senator **STEWART**: Thank you, Mr. President. Did I previously request a Roll Call on -- I thought there was a Roll Call ordered previously.

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

Senator **GUERIN**: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate, you've heard me speak on this bill before. We talked about the fact that the only requirement, the only parameter was necessary and I gave examples from my family on necessary. Today, I want to look at necessary and the idea of disability. Do any of you have people in your family with a disability? Children with a disability? Older folks with a disability? Anything that made them different than their peers? Were they of less value to society? Were there lessons that we could've learned from them if they had lived longer? Did a genetic abnormality make someone worthy of not being part of our society? There have been societies in the past that deemed that people with disabilities were a burden to society, a burden to their families. Those governments went down in infamy in failure for the evil that they promoted that people with disabilities were somehow less worthy of life. I ask you today to look at your family, your circle of friends, and think of someone with a disability or some type of deformity and if you feel like they're not worthy of life because that's what this bill is looking at. For the entire nine months of pregnancy, a life can be terminated because, in a doctor's opinion, a doctor who is being paid for the procedure, that life is not worthy of continuance. I'm going to read you the story from one of my constituents who had a brother who had a genetic abnormality. My name is Rebecca Hinchliffe and I'm the mother of six amazing children. All but one of them had the privilege of growing up with one of the coolest uncles ever, Uncle Daniel. Uncle Daniel was a little different than other people they knew, but in the best ways possible. He was funny, had the most contagious belly laugh, looked forward to every gymnastics meet, soccer game, and school concert. He was one of their biggest fans. He was an Eagle Scout, national Olympic gold medalist in bocci, master of sign language, photographer, food connoisseur, and a devoted Yankees fan. He fulfilled his dream to visit Paris and lived a life to its fullest. Even more amazing was his love for people. He loved big, forgave quickly, never held a grudge, and saw the best in everyone. What may surprise you is that most people never imagined he'd be able to do any of these things because Daniel was born with Down syndrome. As he got older, he knew he was different but he never saw that as an obstacle. I knew Daniel personally and he certainly didn't, he -- he looked at it as a challenge. Uncle Daniel accomplished more in his short life than many of us do in a lifetime. Growing up with him as my brother changed me and all those who knew him for the better. To know him was to love him. For Daniel, an extra chromosome was just one more thing that made him a special son, brother, uncle, and friend that God made him to be. When we start down the path of deciding who is worthy of life, where do we stop? Where did governments before us stop in deciding who had the right to live and who had the right to die, to make it convenient for the parents, for the government, for business? Surely, we are better than that. We can be braver than that. We can embrace difficulty as an opportunity for growth. We can protect life in this body instead of take it.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY**: Thank you, Mr. President. I don't have any prepared remarks today. I delivered plenty of prepared remarks last time this bill was before us. I just wanted to reiterate that throughout this entire process, it's been very difficult to understand why there's been such resistance. If this legislation is truly about these rare cases of fatal fetal abnormalities, why we don't have in front of us right now legislation that is narrowly crafted to deal with those rare cases of fatal fetal abnormalities. It sometimes feels like that's being used as a pretext for something much bigger and I can't help but think as I hear the remarks of the Good Senator from Penobscot County, Senator Guerin, that those are instances that we're going to deal with. When it's discovered, perhaps late in a pregnancy, in the third trimester, not

that there's a fatal abnormality but that there's an abnormality, something that makes a baby - because at that point, we're talking about viability, heartbeat, brain activity - we're talking about a baby that is at the stage of development where the baby can be born alive, can be delivered early, can with medical technology that we have today is fully capable of living outside the womb. And we are really opening the door here for those circumstances where pretty much a fully-developed baby or a baby that could be born premature and survive could be killed for any number of reasons. It would be very easy and I know that there have been efforts, I know there were efforts in the other chamber, it would've been very easy to simply do like we have done in other parts of state statute, like we have in the death with dignity law, and just put in a simple requirement of a fatal diagnosis. That would've been simple and easy but that was not done and we're beyond the point of amendments. I'm disappointed that this is where we are and I don't expect anyone to have a change of heart but if you ever do decide to have a change of heart, now would be a very good time for that. Thank you, all.

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

Senator **CARNEY**: Thank you, President Jackson, Colleagues of the Senate. I just want to speak briefly. This bill, I think, has been difficult for many of us. What I hear in the voices of my Good Colleague from Penobscot and my Good Colleague from Androscoggin is compassion for circumstances that families face in trying times. And I just want to reiterate that LD 1619 is also about compassion. This bill is about making sure that when women and families get horrific news about a wanted pregnancy that is tragic and heartbreaking that those patients and their doctors can work together to understand what the complication is and what the next best steps are, including if if within the standards of medical care and medically necessary includes abortion care then that is also an option as is outlined in this legislation. So, I would just ask colleagues to look at the compassion side of everything that has been said tonight about LD 1619 and understand that this bill is not about deciding who's worthy of life, it's not -- there's no pretext. We -- the bill is really about ensuring that women and families get the most compassionate healthcare they can and the most accurate medically necessary healthcare within the medical standards of care in these tragic circumstances. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pouliot.

Senator **POULIOT**: Thank you, Mr. President. I've not talked on this issue at all but one of the things that I have a grave concern about, that's been referenced a little bit by the Senator from Androscoggin, but the title of the bill, An Act to Improve Maine's Reproductive Privacy Laws is really kind of a misnomer, in my opinion. It really should be entitled An Act to Allow for Abortions After Viability. And because if you read what's written here, it just says simply; after viability, an abortion may be performed only when it is necessary in the professional judgment of a physician licensed pursuant to Title 32, Chapter 36 or 48, the physician shall apply the applicable standard of care in making a professional judgment under this subsection. That's it, Mr. President. So, with passage of this bill, the womb is the determination between whether we're committing murder or a viability after -- an abortion after viability, Mr. President. And I know that up in the northern part of this state, up in the St. John Valley, that's not something that your constituents support. And we were told that we needed to pass this bill, Mr. President, to help with fetal fatal abnormalities and that is not what this does. And anyone that's choosing to say that to the public is misleading the public, Mr. President, because this opens it up to the professional judgment of a physician. That's it. So, if there's somebody that's found in the state that says in their professional judgment, we need to grant this abortion, that's it, and it can happen, and I think it will happen, Mr. President, sadly. We need to do a better job of supporting people. I don't disagree with that. Republicans get criticized a lot, and fairly, for not providing appropriate supports to people and they're left in a situation where they feel like there's no other option. But that's on all of us to help address that issue, Mr. President. Last year, my wife and I were pregnant and at eight weeks, we went in and we saw our baby's heartbeat on that monitor, Mr. President. And the next week, my wife said I don't feel so good and she called the doctor and we went back in and they said the baby has died, Mr. President. And I could hear that heartbeat at eight weeks. So don't tell me there's no life in there, Mr. President. And don't tell me that by voting on this bill, we're only voting to help people who are in a very precarious situation a few times a year, because that's not true, Mr. President. And I hope that folks will stand against this today. Thank you.

THE PRESIDENT: The pending question before the Senate is Enactment. 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 (#483)

YEAS: Senators: BAILEY, BALDACCI, BEEBE-CENTER, BRENNER, CARNEY, CHIPMAN, CURRY, DAUGHTRY, DUSON, GROHOSKI, INGWERSEN, LAFOUNTAIN, LAWRENCE, NANGLE, PIERCE, RENY, ROTUNDO, TIPPING, VITELLI, PRESIDENT JACKSON

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EXCUSED: Senators: BLACK, HICKMAN, KEIM, RAFFERTY

20 Senators having voted in the affirmative and 11 Senators having voted in the negative, with 4 Senators being excused, was **PASSED TO BE ENACTED** and, having been signed by the President , was presented by the Secretary to the Governor for approval.