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STATE OF MAINE

SENATE

132ND LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to S.P. 297, L.D. 682, “An Act to Amend Certain Laws Regarding Abortions”

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

'Sec. 2. 22 MRSA §1598, sub-§1-B, as enacted by PL 2023, c. 416, §3 and reallocated by RR 2023, c. 1, Pt. A, §8, is amended to read:

1-B. Abortion after viability. After viability, an abortion may be performed only when the fetus is diagnosed by a physician licensed pursuant to Title 32, chapter 36 or 48 with a lethal fetal anomaly or it is medically necessary to preserve the life or health of the mother in the professional judgment of a the 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.

Sec. 3. 22 MRSA §1598, sub-§2, ¶A-1 is enacted to read:

A-1. "Lethal fetal anomaly" means a fetal condition diagnosed before birth that, if the pregnancy results in a live birth, will, with reasonable certainty, result in the death of the child not more than 3 months after birth.'

Amend the bill by striking out all of sections 5 and 6 and inserting the following:

'Sec. 5. 22 MRSA §1598, sub-§3, ¶C is enacted to read:

C. A person not licensed as required by paragraph A who knowingly performs an abortion on another person or a person who knowingly assists a nonlicensed person to perform an abortion on another person is guilty of a Class C crime. Nothing in this paragraph limits the applicability of Title 32, section 3270 or any other civil or criminal law that may apply.

Sec. 6. 22 MRSA §1598, sub-§5 is enacted to read:

5. Abortions after viability; criminal liability. A person who performs an abortion after viability is guilty of a Class D crime if:

A. The person knowingly disregarded the viability of the fetus; and

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

This amendment, which is the minority report of the committee, clarifies that the determination that an abortion after viability is medically necessary to preserve the life or health of the mother must be made by a licensed physician. It also clarifies that, in addition to the Class C crime for performing an abortion without a license established by the bill, a person who performs an abortion without a license may be subject to the Class E crime of the unlicensed practice of medicine. It also makes a technical correction to the description of the Class D crime of unlawfully performing an abortion after viability.

(See attached)