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Date: (Filing No. S-)

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 31, L.D. 83, Bill, “An Act To Strengthen the Consent Laws for Abortions Performed on Minors and Incapacitated Persons”

Amend the bill by striking out the title and substituting the following:

'An Act To Strengthen the Consent Laws for Abortions Performed on Minors'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 22 MRSA §1597-A, sub-§1, ¶B-1 is enacted to read:

B-1. "Medical emergency" means a condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate an immediate abortion to avert her death or for which a delay in performing an abortion will create serious risk of substantial and irreversible impairment of a major bodily function.

Sec. 2. 22 MRSA §1597-A, sub-§1, ¶¶D and E are enacted to read:

D. "Next friend" means a counselor or an adult family member of a pregnant minor.

E. "Physician" means a person licensed to practice medicine in this State, including medical doctors and doctors of osteopathy.

Sec. 3. 22 MRSA §1597-A, sub-§2, ¶A, as enacted by PL 1989, c. 573, §2, is amended to read:

A. The attending physician has received and will make part of the medical record both the informed written consent of the minor and one parent, guardian or adult family member and the written verification that the minor received the information and counseling required under subsection 4; or

Sec. 4. 22 MRSA §1597-A, sub-§2, ¶¶B and C, as enacted by PL 1989, c. 573, §2, are repealed.

COMMITTEE AMENDMENT

1 **Sec. 5. 22 MRSA §1597-A, sub-§2-A** is enacted to read:

2 **2-A. Medical emergency exception.** Consent is not required under subsection 2,
3 paragraph A if the attending physician certifies in the pregnant minor's medical record
4 that a medical emergency exists and there is insufficient time to obtain the required
5 consent.

6 **Sec. 6. 22 MRSA §1597-A, sub-§4, ¶B**, as enacted by PL 1989, c. 573, §2, is
7 amended to read:

8 B. After the person provides the information and counseling to a minor as required
9 by this subsection, that person shall have the minor sign and date a form stating that:

10 (1) The minor has received information on prenatal care and alternatives to
11 abortion and that there are agencies that will provide assistance;

12 (2) The minor has received an explanation that the minor may withdraw an
13 abortion decision or reconsider a decision to carry a pregnancy to term;

14 (3) The alternatives available for managing the pregnancy have been clearly and
15 fully explored with the minor;

16 (4) The minor has received an explanation about agencies available to provide
17 birth control information;

18 (5) The minor has discussed with the person providing the information and
19 counseling the possibility of involving the minor's parents, guardian or other
20 adult family members in the minor's decision making about the pregnancy; and

21 ~~(6) The reasons for not involving the minor's parents, guardian or other adult~~
22 ~~family members are put in writing on the form by the minor or the person~~
23 ~~providing the information and counseling; and~~

24 (7) The minor has been given an adequate opportunity to ask questions.

25 The person providing the information and counseling shall also sign and date the
26 form, and include that person's address and telephone number. The person shall keep
27 a copy for that person's files and shall give the form to the minor or, if the minor
28 requests and if the person providing the information is not the attending physician,
29 transmit the form to the minor's attending physician.

30 **Sec. 7. 22 MRSA §1597-A, sub-§6, ¶A**, as enacted by PL 1989, c. 573, §2, is
31 amended to read:

32 A. The minor or next friend of the minor for the purposes of filing a petition may
33 make an application to the Probate Court or District Court which shall assist the
34 minor or next friend in preparing the petition. The court may appoint a guardian ad
35 litem for the minor. A guardian ad litem appointed under this paragraph shall act to
36 maintain the confidentiality of the proceedings. The minor or the next friend of the
37 minor shall file a petition setting forth:

38 (1) The initials of the minor;

39 (2) The age of the minor;

1 (3) That the minor has been fully informed of the risks and consequences of the
2 abortion;

3 (4) That the minor is of sound mind and has sufficient intellectual capacity to
4 consent to the abortion;

5 (5) That, if the court does not grant the minor majority rights for the purpose of
6 consent to the abortion, the court should find that the abortion is in the best
7 interest of the minor and give judicial consent to the abortion; and

8 (7) That, if the minor does not have private counsel, that the court may appoint
9 counsel.

10 The minor or the next friend shall sign the petition.'

11 **SUMMARY**

12 This amendment, which is the minority report of the Joint Standing Committee on
13 Judiciary, replaces the bill. The amendment deletes references to abortions performed on
14 incapacitated persons.

15 The amendment retains current law concerning the consent necessary for a physician
16 to perform an abortion on a pregnant minor, but the amendment provides that an abortion
17 may not be performed unless, in addition to the minor's receiving information and
18 counseling, at least one of the minor's parents or guardian or adult family member
19 consents to the abortion. The amendment does not permit a minor or a counselor to
20 consent to an abortion without a parent's consenting, except that the amendment permits a
21 physician to perform an abortion without the required consent if the physician determines
22 that a medical emergency exists. The amendment retains the judicial bypass in current
23 law that allows a minor or next friend of the minor to petition the Probate Court or
24 District Court for consent rather than obtaining parental consent. This amendment limits
25 who may act as the next friend of the minor to adult family members and counselors. If a
26 pregnant minor files a petition in the Probate Court or District Court for consent to an
27 abortion without parental consent, the court may appoint a guardian ad litem for the
28 minor, and the guardian ad litem is directed to act to maintain the confidentiality of the
29 proceedings.

30 The amendment defines "medical emergency" and "physician."