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TESTIMONY OF MEAGAN SWAY, ESQ.

Ought to Pass as Amended - LD 1619

An Act To Improve Maine's Reproductive Privacy Laws

Submitted to the

JOINT STANDING COMMITTEE ON JUDICIARY

May 1, 2023

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Meagan Sway, and I am the Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. I am here today to testify in support of LD 1619, which will better ensure that reproductive privacy is available to everyone in Maine.

If passed, this legislation would do the following: (1) clarify the data that is collected from each person who has an abortion in Maine; (2) remove unnecessary qualifications to the state's policy of not restricting a person's private decision to terminate her pregnancy; and (3) remove from our criminal code crimes relating to performing abortions. While we support all aspects of this legislation, I wish to focus on the second and third points today.

In the aftermath of *Dobbs v. Jackson Women's Health Organization*, abortion is banned in 12 states and 12 more states are attempting to enact a ban or extreme restrictions.¹ In addition to making this essential health care inaccessible to more than 1 in 3 people who need it,² states like Idaho, Louisiana, South Dakota, Tennessee and Texas have gone even farther, criminalizing abortion.³ This crackdown on our fundamental rights means that, although abortion was already difficult to access in many parts of the country before last year, the number of people who need abortions later in their pregnancy will dramatically increase as people cannot get the health care

¹ See Center for Reproductive Rights, *After Roe Fell: Abortion Laws by State*, last accessed Apr. 23, 2023, available at <https://reproductiverights.org/maps/abortion-laws-by-state/>.

² Katie Shepherd, Rachel Roubein & Caroline Kitchener, 1 in 3 American women have already lost abortion access. More restrictive laws are coming., *The Washington Post*, Aug. 22, 2022, available at <https://www.washingtonpost.com/nation/2022/08/22/more-trigger-bans-loom-1-3-women-lose-most-abortion-access-post-roel/>.

³ Center for Reproductive Rights, *After Roe Fell: Abortion Laws By State*.

they need in their home states and are forced to travel out of state. It is in this context that the bill before you is more urgent than ever before. We ask you to act quickly.

We support removing from Maine's Reproductive Privacy Act the restriction that the state will only refrain from restricting a person's reproductive autonomy after viability only when necessary to save the life or health of the mother.⁴ This is a matter of racial, economic, and gender justice. People who need abortions later in their pregnancy often did not know they were pregnant before, could not access health care earlier, or could not gather the money needed for an abortion earlier in their pregnancy. This all means that people who dominant society marginalizes—Black women, people with less education, and women with multiple major disruptive life events—are more likely to need abortions later in their pregnancies. The right to decide whether, when, and how to have a child is fundamental to the autonomy, dignity and equality of people who can become pregnant. This decision affects every aspect of our lives: Our economic status, our educational aspirations, our career goals, our health, and the health of our families are all implicated by our ability to control our reproductive decisions. Removing viability as the line at which the state will not interfere with a person's decision whether to terminate their pregnancy gives freedom and autonomy to those who need it later in their pregnancy, and the state should support this policy.

We also support striking from state statute crimes associated with providing or assisting in the provision of certain abortions: a Class C crime for an unlicensed person to perform an abortion or for a person to assist a unlicensed person to perform an abortion, and a Class D crime for performing an abortion after viability when it was not necessary for the preservation of the life or health of the pregnant person. These laws were created in part in an attempt to deter unlicensed people from performing unsafe surgical abortions. However, it is already a crime to practice medicine or perform an abortion without a medical license, *see* 32 M.R.S. §3270, and now that medication abortion is vastly more common than surgical abortion, the abortion-related crimes in our statutes are outdated and out of keeping with science.

⁴ However, we respectfully request that the committee make two amendments: first, to change the language in the statute to be gender neutral, and second, to change the language of Section 2 of the bill to remove the reference to physicians. In 2019, the Maine legislature clarified that advanced practice clinicians, not just doctors, may perform abortions, and the state should not interfere in a medical decision made by anyone authorized to perform an abortion and their patient.