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THE MAINE SENATE
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**Joint Standing Committee on Judiciary on
LD 682, An Act to Amend Certain Laws Regarding Abortions
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Senator Carney, Representative Kuhn, and my esteemed colleagues of the Joint Standing Committee on Judiciary: I am Dave Haggan and I have the honor of representing the people of Senate District 10, which includes three municipalities in Hancock County and nine municipalities in Penobscot County. I am pleased to present LD 682, *An Act to Amend Certain Laws Regarding Abortions*.

After *Roe v. Wade* was decided in 1973, Maine passed a series of measures over the course of the next six years in response to this landmark decision. Whether you agreed with the decision and the reasoning behind it or not, the bills sought to codify abortion in Maine.

In the 1993 case of *Planned Parenthood v. Casey*, the U.S. Supreme Court imposed a new standard on state abortion restrictions. The new standard asked whether a state abortion regulation had the purpose or effect of imposing an "undue burden," which is defined as a "substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability." After this decision was issued, Maine lawmakers worked together to enact the Maine Reproductive Privacy Act.

The Act, which was passed as LD 318 and signed into law by Republican Governor John McKernan in 1993, remained on the books for decades until last session and allowed abortions for any reason until the point of viability as defined by the *Casey* decision. After that, abortions could only be performed when the life or health of the mother was at risk.

Therefore, the overturn of *Roe v. Wade* in the *Dobbs v. Jackson Women's Health Organization* decision had no effect on our statutes. It was a false flag, a red herring.

Last session, the Chief Executive brought forward an expansion of this law after hearing tragic stories from women who had to travel out of state to get an abortion. One in particular did so after her physician determined her unborn child had a fatal fetal anomaly, meaning the baby would not have survived more than a couple of days outside of the womb if it survived childbirth at all.

My heart is broken for the decision this family had to make. I cannot imagine the loss of a child, no less the loss of one who has not even been born yet. So, while I understood the intention of LD 1619 in the last Legislature as a member of this committee – the committee I will add that heard countless hours of testimony in opposition to that bill through the night until the next day – the effort to prevent another desperate woman needing to go out of state

for such a procedure went far beyond what was necessary.

As established under the passage of LD 1619, current law leaves the decision to terminate a pregnancy – even a full-term one – to the discretion of a woman and a single physician. This change goes far beyond what was needed to help the family in question and has made Maine the least restrictive state in the nation. Although late term abortions may be rare, our current law provides no protections for viable babies before birth. If a society can be judged by how it treats its most vulnerable, Maine is certainly getting a failing grade.

According to the Kaiser Family Foundation, a plurality of states (18) has laws that set the gestational limit at or near viability. All of these states, and even those with complete bans after 12 or 6 weeks (also 18 states), have an exception for the life or health of the mother. Of those 18, eight states have exceptions for fatal fetal anomalies.

Proponents of the bill back then, particularly Planned Parenthood, referred to a poll of Mainers who they said agreed with an expansion of abortion beyond 24 weeks. What they failed to mention is the language of the poll question included “if deemed medically necessary.” Unfortunately, LD 1619 never included that language.

Instead, our desire to provide an exception for lethal fetal anomalies has resulted in a statute that goes far beyond it being medically necessary by allowing abortions up to the moment of birth. That certainly goes against the wishes of a majority of Mainers. It was disingenuous at the least for Planned Parenthood to say otherwise.

Compared to our European allies, Maine’s overly permissive abortion laws are extreme.

- In the United Kingdom, abortion is permitted up to 24 weeks of pregnancy. There is no limit in cases where a woman’s life is at risk or there is a serious fetal anomaly.
- In Ireland, abortion is allowed up to 12 weeks of pregnancy but also allowed later if the fetus has a terminal condition or the woman’s health is in danger.
- In Germany, a woman can only obtain a legal abortion within 12 weeks of conception if they submit to counseling and other restrictions. Germany is one of 12 European countries that requires women to undergo counseling or receive information before abortions.
- In Spain, unwanted pregnancies can be terminated for the first 14 weeks, and up to 22 weeks for severe fetal anomalies.
- In Norway, women can obtain abortions for 12 weeks but can be permitted later if the mother’s life is in danger or the baby has severe abnormalities. This will be expanded to 18 weeks beginning in June. Denmark and Sweden have similar policies.

If you look up more countries, you will see similar restrictions in place.

Regarding the information piece of this bill, we also need to have access to data to make the

most informed public policies. Data collection, which is standardized and collected for the U.S. Centers for Disease Control and Prevention by the National Association for Public Health Statistics and Information Systems, was diminished as part of the passage of LD 1619. That only makes policymaking harder. As long as the personal information remains confidential, I can think of no reason why this sort of information should not be collected.

If the intention was to provide an exception for lethal fetal anomalies, we should want to know the frequency and types of it. Are there trends we can find in the data? When it comes to public health, we should want to maintain this data whether we have to or not.

In conclusion, my bill is probably the most modest of all the bills this committee will hear today. It only repeals the extreme language of LD 1619. It will continue to protect the rights of women and families in this tragic situation, which was the original intention stated by the Chief Executive but was clearly expanded well beyond it. It will do so without opening the door to potential abuses against our youngest Mainers.

I urge you to support LD 682. Thank you for your time today.