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Maine provides minimal protection for women seeking abortions. For example, its parental involvement law contains a major loophole, allowing abortion providers to veto a parent’s right to grant or withhold consent. Further, Maine is in the minority of states failing to provide meaningful legal recognition and protection to unborn victims of criminal violence.

» ABORTION

- Maine has enacted a Freedom of Choice Act providing for a legal right to abortion even if Roe v. Wade is eventually overturned and stating that it is the public policy of Maine not to restrict access to abortion before viability.

- A physician may not perform an abortion on a woman until after advising her of the probable gestational age of the unborn child; the risks associated with continued pregnancy and the proposed abortion procedure; and, at the woman’s request, alternatives to abortion and information about and a list of public and private agencies that will provide assistance if the woman chooses to carry her pregnancy to term.

- A physician may not perform an abortion on a minor under the age of 18 until after advising her about the alternatives to abortion, prenatal care, agencies providing assistance, and the possibility of involving her parents or other adult family members in her decision. Moreover, the physician must have the written consent of one parent or an adult family member unless he or she determines that the minor is “mentally and physically competent” to give consent or has secured a court order.

- Only physicians licensed to practice medicine or osteopathy by the State of Maine may perform abortions.

- Maine has an enforceable abortion reporting law, but does not require the reporting of information to the Centers for Disease Control (CDC). The measure governs both surgical and nonsurgical abortions.

- Maine follows the federal standard for Medicaid funding for abortions, permitting the use of federal or state matching Medicaid funds for abortions necessary to preserve the life of the woman or when the pregnancy is the result of rape or incest.

» LEGAL RECOGNITION AND PROTECTION OF UNBORN AND NEWLY BORN

- Maine does not currently recognize an unborn child as a potential victim of homicide or assault.
• Maine provides for an enhanced sentence for the homicide of a pregnant woman and has created a new crime of “elevated aggravated assault” on a pregnant woman.

• The state requires healthcare providers to report all deaths of infants less than one year of age, as well as deaths of women during pregnancy and maternal deaths within 42 days of giving birth, to the Maternal Infant Death Review Panel.

• The state allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.

• Maine has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.

• Maine has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring that the infants receive appropriate care and protection.

• The state requires a healthcare provider involved in the delivery or care of an infant suspected to have been exposed to drugs in utero to report the suspected exposure to the state Department of Health and Human Services.

• Maine provides for the issuance of a “Certificate of Birth Resulting in Stillbirth” when requested by a parent.

» BIOETHICS LAWS

• Maine does not maintain laws regarding human cloning, but its ban on fetal experimentation applies to live fetuses either intrauterine or extrauterine. Thus, its fetal experimentation statute could be read to prohibit harmful experimentation on human embryos.

• Maine does not promote ethical forms of research.

• Maine maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

» END OF LIFE LAWS

• In Maine, assisted suicide is a felony.

» HEALTHCARE FREEDOM OF CONSCIENCE

Participation in Abortion

• The conscientious objection of a physician, nurse, or other healthcare worker to performing or assisting in the performance of an abortion may not be the basis for civil liability, discrimination in employment or education, or other recriminatory action. Medical and nursing students are also protected.
The conscientious objection of a hospital or other healthcare facility to permitting an abortion on its premises may not be the basis for civil liability or recriminatory action.

Private institutions, physicians, or their agents may refuse to provide family planning services based upon religious or conscientious objections.

The state provides some protection for the conscience rights of pharmacists and pharmacies.

Health insurance plans that provide prescription coverage must also provide coverage for contraception. The provision includes an exemption so narrow that it excludes the ability of most employers and insurers with moral or religious objections from exercising the exemption.

**Participation in Research Harmful to Human Life**

Maine currently provides no protection for the rights of healthcare providers who conscientiously object to participation in human cloning, destructive embryo research, or other forms of medical research, which violate a provider's moral or religious belief.

**WHAT HAPPENED IN 2014**

- Governor Paul LePage vetoed legislation which would have expanded Medicaid family planning funding to individuals at or below 200 percent of the federal poverty line. While not directly related to abortion funding, the measure would have made more money available to abortion providers.

- In *Fitzgerald v. Portland*, a pro-life family challenged a local ordinance placing a “no pro-life speech” zone around abortion clinics. The ordinance was reportedly repealed in the wake of the Supreme Court’s decision in *McCullen v. Coakley*, which struck down a similar ordinance in Massachusetts, but another similar zone is being contemplated in Portland.

- Maine considered legislation related to pain management and palliative care.
RECOMMENDATIONS
for MAINE

WOMEN’S PROTECTION PROJECT PRIORITIES

• Women’s Health Defense Act (5 month abortion limitation)
• Women’s Right to Know Act with reflection period
• Abortion Patients’ Enhanced Safety Act
• Abortion-Inducing Drugs Safety Act
• Parental Consent for Abortion Act
• Parental Involvement Enhancement Act
• Child Protection Act
• Enhanced penalties and enforcement mechanisms for the state’s abortion-related laws

ADDITIONAL PRIORITIES

Abortion
• Repeal State FOCA
• Federal Abortion-Mandate Opt-Out Act
• Defunding the Abortion Industry and Advancing Women’s Health Act
• Women’s Ultrasound Right to Know Act
• Coercive Abuse Against Mothers Prevention Act
• Prenatal Nondiscrimination Act

Legal Recognition and Protection for the Unborn
• Crimes Against the Unborn Child Act
• Unborn Wrongful Death Act
• Pregnant Woman’s Protection Act

Bioethics
• Human Cloning Prohibition Act
• Destructive Embryo Research Act
• Prohibition on Public Funding of Human Cloning and Destructive Embryo Research Act

Healthcare Freedom of Conscience
• Healthcare Freedom of Conscience Act