

By Messrs. Tuttle of Framingham, Linsky of Brookline and Greenberg of Pittsfield, petition of Martin A. Linsky, Joel S. Greenberg and another for legislation to liberalize the criteria for the performance of therapeutic abortions. Social Welfare.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT TO LIBERALIZE THE CRITERIA FOR THE PERFORMANCE OF THERAPEUTIC ABORTIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 19 of chapter 272 of the General Laws is hereby
2 amended by striking out said section and inserting in place
3 thereof the following:—

4 *Section 19. (1) Unjustified Abortion.* A person who pur-
5 posely and unjustifiably terminates the pregnancy of an-
6 other otherwise than by a live birth, shall if the woman
7 dies in consequence thereof, be punished by imprisonment
8 in the state prison for not less than five years and not
9 more than twenty years; and if she does not die in con-
10 sequence thereof by imprisonment in the state prison for
11 not more than seven years and by a fine of not more than
12 two thousand dollars.

13 (2) *Justifiable Abortion.* A licensed physician is justified in
14 terminating a pregnancy if he believes there is substantial
15 risk that continuance of the pregnancy would seriously
16 impair the physical or mental health of the mother or that
17 the child would be born with serious physical or mental
18 defect, or that the pregnancy resulted from rape, incest, or
19 other felonious intercourse. A pregnancy may also be termi-
20 nated if the licensed physician believes that continuance of
21 the pregnancy would adversely affect in a serious manner the

22 future well-being of the pregnant woman and/or her other
23 children. All illicit intercourse with a girl below the age of
24 sixteen shall be deemed felonious for purposes of this sub-
25 section. Justifiable abortions shall be performed only in a
26 licensed hospital except in case of emergency when hospital
27 facilities are unavailable.

28 (3) *Physicians' Certificates; Presumption from Non-*
29 *Compliance.* No abortion shall be performed unless two
30 physicians, one of whom may be the person performing the
31 abortion, shall have certified in writing the circumstances
32 which they believe to justify the abortion. Such certificate
33 shall be submitted before the abortion to the hospital where
34 it is to be performed and, in the case of abortion following
35 felonious intercourse, to the prosecuting attorney or the
36 police. Failure to comply with any of the requirements of this
37 subsection gives rise to a presumption that the abortion was
38 unjustified. The physician shall have no duty to terminate a
39 pregnancy if he has conscientious objections to the perfor-
40 mance of such an operation unless such operation is necessary
41 to save the life or prevent serious impairment to the physical
42 or mental health of the pregnant woman.