HOUSE DOCKET, NO. FILED ON: 1/16/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Ellen Story, Byron Rushing**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General  
 Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act updating the public health laws.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Ellen Story | 3rd Hampshire |
| Byron Rushing | 9th Suffolk |
| Harriette L. Chandler | First Worcester |
| Bill Bowles | 2nd Bristol |
| William N. Brownsberger | 24th Middlesex |
| Christine E. Canavan | 10th Plymouth |
| Barry R. Finegold | 17th Essex |
| Denis E. Guyer | 2nd Berkshire |
| John D. Keenan | 7th Essex |
| Peter v. Kocot | 1st Hampshire |
| Stephen Kulik | 1st Franklin |
| Denise Provost | 27th Middlesex |
| Pam Richardson | 6th Middlesex |
| Tom Sannicandro | 7th Middlesex |
| Frank I. Smizik | 15th Norfolk |
| Robert P. Spellane | 13th Worcester |
| Cleon H. Turner | 1st Barnstable |
| Alice K. Wolf | 25th Middlesex |
| Rosemary Sandlin | 3rd Hampden |
| Matthew C. Patrick | 3rd Barnstable |
| Katherine Clark | 32nd Middlesex |
| Anne M. Gobi | 5th Worcester |
| David P. Linsky | 5th Middlesex |
| John W. Scibak | 2nd Hampshire |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act updating the public health laws.

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

WHEREAS The Legislature finds that it is the policy of the commonwealth to provide its citizens with laws that protect the public health, as evidenced by its proud history of enacting laws and policies that protect women’s health and allow for the protection of individual rights enumerated in the Massachusetts Declaration of Rights.

WHEREAS The Legislature finds that the near-total bans on contraception and abortion and other unenforceable restrictions are antiquated and unconstitutional laws that run contrary to Massachusetts’ strong record on protecting women’s reproductive health. Keeping these outdated statutes in the General Laws flies in the face of the commonwealth’s commitment to women’s health, and any attempts to enforce these laws would pose a grave threat to the public health.

WHEREAS The Legislature finds that Massachusetts is one of only four states in the United States where a pre-*Roe v. Wade* (1973) criminal abortion statute has been neither repealed nor enjoined, despite the fact that legal abortion has protected the health and lives of women in the United States. Prior to the *Roe v. Wade* decision by the U.S. Supreme Court in 1973, an estimated 1,200,000 women each year were forced to resort to illegal abortions, leading to infection, hemorrhage, disfiguration, and death – and unsafe abortion was the leading cause of maternal mortality. Since abortion became legal in the U.S., maternal mortality and morbidity has drastically declined, and deaths and injuries from abortion are now extremely rare.

WHEREAS The Legislature finds that a ban on contraception for unmarried persons remains in the General Laws despite having been found unconstitutional by the U.S. Supreme Court in 1972. Contraceptive use and access is critical to being able to avoid unplanned pregnancy, which can have far-reaching consequences for a woman, her family, and society at large. Lack of access to contraception is associated with increased health risks for both mothers and children due to unintended pregnancies and closely spaced births.

WHEREAS The Legislature finds that the unenforceable statutory requirement that abortions during or after the thirteenth week of pregnancy be performed only in hospitals duly authorized to provide facilities for general surgery does not serve women’s health and instead creates obstacles that may harm women’s health in the commonwealth. Medical and surgical abortions are extremely safe procedures. In the United States, 90% of abortions are performed in outpatient settings that – while unconnected with hospitals – adhere to stringent medical standards, and fewer than 0.3% of abortion patients have complications requiring hospitalization. Moreover, abortions in hospital settings are considerably more costly, and these facilities are also not significant providers of this care nationally or in Massachusetts. Requiring second-trimester abortions to be performed in hospitals would greatly limit access to these health services, forcing women to delay or forgo their abortions because they cannot find a hospital to provide this medical care and/or are unable to afford the procedure in such a setting.

THEREFORE BE IT ENACTED:

SECTION 1. Section 12Q of chapter 112 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

Except in an emergency requiring immediate action, no abortion may be performed under section 12L or 12M unless the written consent of the proper person has been delivered to the physician performing the abortion as set forth in section 12S.

SECTION 2. Section 19 of chapter 272 of the General Laws is hereby repealed.

SECTION 3. Section 20 of said chapter 272 is hereby repealed.

SECTION 4. Section 21 of said chapter 272 is hereby repealed.

SECTION 5. Section 21A of chapter 272 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out in lines 2, 5, and 8 the word “married”.