

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Ellen Story, Byron Rushing

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.

PETITION OF:

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

In the Year Two Thousand and Nine

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:

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

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8 outdated statutes in the General Laws flies in the face of the commonwealth’s commitment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

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12 States where a pre-*Roe v. Wade* (1973) criminal abortion statute has been neither repealed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

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

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

39 THEREFORE BE IT ENACTED:

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

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

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

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

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

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