

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Harriette L. Chandler**

*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 relative to updating the public health laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
Ellen Story	3rd Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00831 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT RELATIVE TO 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.

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9       outdated statutes in the General Laws flies in the face of the commonwealth’s commitment  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

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13      WHEREAS The Legislature finds that Massachusetts is one of only four states in the United  
14      States where a pre-*Roe v. Wade* (1973) criminal abortion statute has been neither repealed  
15      nor enjoined, despite the fact that legal abortion has protected the health and lives of  
16      women in the United States. Prior to the *Roe v. Wade* decision by the U.S. Supreme Court  
17      in 1973, an estimated 1,200,000 women each year were forced to resort to illegal abortions,  
18      leading to infection, hemorrhage, disfiguration, and death – and unsafe abortion was the

19 leading cause of maternal mortality. Since abortion became legal in the U.S., maternal  
20 mortality and morbidity has drastically declined, and deaths and injuries from abortion are  
21 now extremely rare.

22

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

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

43

44 THEREFORE BE IT ENACTED

45

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

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

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

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

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

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

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